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C. In accordance with the NCP and Section 121(f)(1)(F) of CERCLA, 42 U.S.C. § 9621(f)(1)(F), EPA notified the State of Maryland (the "State") of negotiations with potentially

1 responsible parties regarding the implementation of the remedial design and remedial action for the
2 Site, and EPA has provided the State with an opportunity to participate in such negotiations and to
3 be a party to this Consent Decree. In a letter dated March 14, 2003, the State declined to participate
4 in the negotiations or to be a party to this Consent Decree.

5 D. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA notified the
6 Department of Interior and the National Oceanic and Atmospheric Administration on or about March
7 19, 2003 of negotiations with potentially responsible parties regarding the release of hazardous
8 substances that may have resulted in injury to the natural resources under Federal trusteeship and
9 encouraged the trustees to participate in the negotiation of this Consent Decree.

10 E. The defendants that have entered into this Consent Decree ("Settling Defendants") do not
11 admit any liability to the Plaintiff arising out of the transactions or occurrences alleged in the
12 complaint, nor do they acknowledge that the release or threatened release of hazardous substance(s)
13 at or from the Site constitutes an imminent or substantial endangerment to the public health or
14 welfare or the environment.

15 F. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the National
16 Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register
17 on September 8, 1983, 48 Fed. Reg. 40658 (1983). EPA completed a Remedial
18 Investigation/Feasibility Study ("RI/FS") for Operable Unit One ("OU1") of the Site in July 1985.
19 EPA issued a Record of Decision ("ROD") for OU1 on September 30, 1985, which required
20 excavation and off-site disposal of certain contaminated materials and installation of a groundwater
21 pump and treat system to address contamination in the shallow ("upper") aquifer at the Site. On

1 April 21, 1988, this Court entered a Consent Decree between the United States and a group of forty
2 potentially responsible parties ("Settlors I") for performance of the OU1 ROD ("1988 Consent
3 Decree for OU1"). On September 28, 1990, EPA issued a ROD for Operable Unit Two ("OU2") of
4 the Site which dealt with the deeper ("lower") aquifer at the Site. On January 28, 1992, this Court
5 entered an Amendment to the April 21, 1988 Consent Decree ("1992 Amendment"). This January
6 28, 1992 Amendment, signed by a group of forty-two potentially responsible parties ("Settlors II"),
7 provides for Settlors II to implement the OU2 ROD.

8 G. In response to a release or a substantial threat of a release of a hazardous substance(s) at or
9 from the Site, a group of PRPs commenced on or about June 8, 1995, a Remedial Investigation and
10 Feasibility Study ("RI/FS") for Operable Unit Three ("OU3") at the Site pursuant to 40 C.F.R.
11 § 300.430. OU3 addresses contaminated soils as well as the final groundwater remedy at the Site.

12 H. A group of PRPs at the Site completed an OU3 RI Report on or about October 16, 1997 and
13 an OU 3 FS Report on or about June 7, 2002.

14 I. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the
15 completion of the OU 3 FS and of the proposed plan for remedial action in July of 2002, in a major
16 local newspaper of general circulation. EPA provided an opportunity for written and oral comments
17 from the public on the proposed plan for remedial action. A copy of the transcript of the public
18 meeting is available to the public as part of the administrative record upon which the Regional
19 Administrator based the selection of the response action.

20 J. The decision by EPA on remedial action to be implemented at the Site for OU3 is embodied
21 in a final OU 3 Record of Decision ("ROD"), executed on or about October 25, 2002, on which the

1 State had a reasonable opportunity to review and comment. The ROD includes a responsiveness
2 summary to the public comments. Notice of the final plan was published in accordance with Section
3 117(b) of CERCLA.

4 K. In 2003 and 2004, the hazardous substance 1,4-dioxane was detected in certain groundwater
5 monitoring wells at the Site. Neither the nature and extent of 1,4-dioxane contamination at the Site
6 (e.g., in soil, ground water or surface water), nor its impact on the OU 3 ROD remedy, if any, has
7 yet been determined. Settling Defendants recognize that 1,4-dioxane is a contaminant of concern
8 at the Site and agree to address it under this Consent Decree, consistent with paragraph 6.a.
9 (Commitments by Settling Defendants) of Section V (General Provisions) herein, in conjunction
10 with implementing the remedial action for OU 3 at the Site.

11 L. Based on the information presently available to EPA, EPA believes that the Work will be
12 properly and promptly conducted by the Settling Defendants (identified in Appendix C) if conducted
13 in accordance with the requirements of this Consent Decree and its appendices.

14 M. Solely for the purposes of Section 113(j) of CERCLA, 42 U.S.C. § 9613(j), the Remedial
15 Action selected by the OU 3 ROD and the Work to be performed by the Settling Defendants shall
16 constitute a response action taken or ordered by the President.

17 N. The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent
18 Decree has been negotiated by the Parties in good faith and that implementation of this Consent
19 Decree will expedite the cleanup of the Site and will avoid prolonged and complicated litigation
20 between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

21 NOW, THEREFORE, it is hereby Ordered, Adjudged, and Decreed:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9606, 9607, and 9613(b). This Court also has personal jurisdiction over the Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaint, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree applies to and is binding upon the United States and upon Settling Defendants and their heirs, successors and assigns. Any change in ownership or corporate status of a Settling Defendant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter such Settling Defendant's responsibilities under this Consent Decree.

3. Settling Defendants shall provide a copy of this Consent Decree to each contractor hired to perform the Work (as defined below) required by this Consent Decree and to each person representing any Settling Defendant with respect to the Site or the Work and shall condition all contracts entered into hereunder upon performance of the Work in conformity with the terms of this Consent Decree. Settling Defendants or their contractors shall provide written notice of the Consent Decree to all subcontractors hired to perform any portion of the Work required by this Consent Decree. Settling Defendants shall nonetheless be responsible for ensuring that their contractors and subcontractors perform the Work contemplated herein in accordance with this Consent Decree. With

1 regard to the activities undertaken pursuant to this Consent Decree, each contractor and
2 subcontractor shall be deemed to be in a contractual relationship with the Settling Defendants within
3 the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).

4 **IV. DEFINITIONS**

5 4. Unless otherwise expressly provided herein, terms used in this Consent Decree which are
6 defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned
7 to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent
8 Decree or in the appendices attached hereto and incorporated hereunder, the following definitions
9 shall apply:

10 "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and
11 Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675.

12 "Consent Decree" shall mean this Decree and all appendices attached hereto (listed in Section
13 XXIX). In the event of conflict between this Decree and any appendix, this Decree shall control.

14 "Day" shall mean a calendar day unless expressly stated to be a working day. "Working day"
15 shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time
16 under this Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday,
17 the period shall run until the close of business of the next working day.

18 "Duly Authorized Representative" shall mean a person set forth or designated in accordance
19 with the procedures set forth in 40 C.F.R. § 270.11(b).

20 "Effective date" shall be the effective date of this Consent Decree as provided in Section XXVII

1 of this Consent Decree.

2 "EPA" shall mean the United States Environmental Protection Agency and any successor
3 departments or agencies of the United States.

4 "Future Oversight Costs" shall mean that portion of Future Response Costs that EPA incurs in
5 monitoring and supervising Settling Defendants' performance of the Work to determine whether such
6 performance is consistent with the requirements of this Consent Decree, including costs incurred in
7 reviewing plans, reports, and other documents submitted pursuant to this Consent Decree, as well
8 as costs incurred in overseeing implementation of the Work; however, Oversight Costs do not
9 include, *inter alia*: the costs incurred by the United States pursuant to Sections VII (Remedy
10 Review), IX (Access and Institutional Controls), XV (Emergency Response), and Paragraph 87 of
11 Section XXI (Work Takeover), or the costs incurred by the United States in enforcing the terms of
12 this Consent Decree, including all costs incurred in connection with Dispute Resolution pursuant to
13 Section XIX (Dispute Resolution) and all litigation costs.

14 "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect
15 costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant
16 to this Consent Decree, verifying the Work, or otherwise implementing, overseeing, or enforcing this
17 Consent Decree, including, but not limited to, payroll costs, contractor costs, travel costs, laboratory
18 costs, the costs incurred pursuant to Sections VII (Remedy Review), IX (Access and Institutional
19 Controls)(including, but not limited to, the cost of attorney time and any monies paid to secure
20 access and/or to secure or implement institutional controls including, but not limited to, the amount
21 of just compensation), XV (Emergency Response), and Paragraph 87 of Section XXI (Work

Takeover). Future Response Costs shall also include all Interim Response Costs.

“Interest” shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

“Interest Earned” shall mean interest earned on amounts in the Maryland, Sand Gravel and Stone Superfund Site Disbursement Special Account, which shall be computed monthly at a rate based on the annual return on investments of the Hazardous Substance Superfund. The applicable rate of interest shall be the rate in effect at the time the interest accrues.

“Interim Response Costs” shall mean all costs, including direct and indirect costs, (a) paid by the United States in connection with the Site between March 18, 2003 and the Effective Date, or (b) incurred prior to the Effective Date but paid after that date.

“Maryland Sand, Gravel and Stone Superfund Site Special Account” shall mean the special account established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3), and this Consent Decree.

“Maryland Sand, Gravel and Stone Superfund Site Disbursement Special Account” shall mean the special account established for the Site pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3), and this Consent Decree, for the purpose of disbursing monies from the Armstrong Recovery, if any.

“MDE” shall mean the Maryland Department of the Environment and any successor

1 departments or agencies of the State.

2 “National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances
3 Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605,
4 codified at 40 C.F.R. Part 300, and any amendments thereto.

5 “Operation and Maintenance” or “O & M” shall mean all activities required to maintain the
6 effectiveness of the Remedial Action as required under the Operation and Maintenance Plan
7 approved or developed by EPA pursuant to this Consent Decree.

8 “Owner Settling Defendant” shall mean the Maryland Sand, Gravel and Stone Company, Inc.

9 “Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral or an
10 upper case letter.

11 “Parties” shall mean the United States and the Settling Defendants.

12 “Past Response Costs” shall mean all costs, including, but not limited to, direct and indirect
13 costs, that the United States has paid at or in connection with the Site through March 18, 2003 and
14 which are identified in the summary of costs attached hereto as Appendix A, plus Interest on all such
15 costs which has accrued pursuant to 42 U.S.C. § 9607(a) through such date.

16 “Performance Standards” shall mean the cleanup standards and other measures of achievement
17 of the goals of the Remedial Action, set forth on pages 48 through 60 of the ROD attached hereto
18 as Appendix B; applicable or relevant and appropriate requirements (“ARARs”) and risk-based
19 standards to be developed by Settling Defendants and then determined by EPA for 1,4-dioxane; and
20 those standards that are developed by the Settling Defendants and determined by EPA during
21 Remedial Design.

1 “Plaintiff” shall mean the United States.

2 “RCRA” shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901 et seq. (also
3 known as the Resource Conservation and Recovery Act).

4 “Record of Decision” or “ROD” shall mean the EPA Record of Decision relating to Operable
5 Unit 3 at the Site signed on October 25, 2002 by the Director of the EPA Region III Hazardous Site
6 Cleanup Division, and all attachments thereto. The ROD is attached as Appendix B.

7 “Remedial Action” shall mean those activities, except for Remedial Design and Operation and
8 Maintenance, to be undertaken by the Settling Defendants to implement the ROD, and remedial
9 measures to achieve the Performance Standards for 1,4-dioxane, subject to Paragraph 6.a. of Section
10 V (General Provisions) of this Consent Decree, in accordance with the final Remedial Design and
11 Remedial Action Work Plans and other plans approved by EPA.

12 “Remedial Action Work Plan” shall mean the document developed pursuant to Paragraph 11
13 of this Consent Decree and approved by EPA, and any amendments thereto.

14 “Remedial Design” shall mean those activities to be undertaken by the Settling Defendants to
15 develop the final plans and specifications for the Remedial Action pursuant to the Remedial Design
16 Work Plans.

17 “Remedial Design Work Plans” shall mean documents developed pursuant to Paragraph 11 of
18 this Consent Decree and approved by EPA, and any amendments thereto.

19 “Section” shall mean a portion of this Consent Decree identified by a Roman numeral.

20 “Settling Defendants” shall mean those Parties identified in Appendix C (“Settling
21 Defendants”).

1 "Site" shall mean the Maryland Sand, Gravel and Stone Superfund Site, encompassing
2 approximately 150 acres, located in Elkton, consisting of parcels 256, 276 and 332 on Tax Map 26
3 of Cecil County, Maryland and depicted in the ROD, and the areal extent of contamination.

4 "State" shall mean the State of Maryland.

5 "Supervising Contractor" shall mean the principal contractor retained by the Settling Defendants
6 to supervise and direct the implementation of the Work under this Consent Decree.

7 "United States" shall mean the United States of America.

8 "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA,
9 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33), 42 U.S.C. § 9601(33);
10 and (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

11 "Work" shall mean all activities Settling Defendants are required to perform under this Consent
12 Decree, except those required by Section XXV (Retention of Records).

13 **V. GENERAL PROVISIONS**

14 **5. Objectives of the Parties**

15 The objectives of the Parties in entering into this Consent Decree are to protect public health or
16 welfare or the environment at the Site by the design and implementation of response actions at the
17 Site by the Settling Defendants, to reimburse response costs of the Plaintiffs, and to resolve the claims
18 of Plaintiffs against Settling Defendants as provided in this Consent Decree.

19 **6. Commitments by Settling Defendants**

20 a. Settling Defendants shall finance and perform the Work in accordance with this

Consent Decree, the ROD, and all work plans and other plans, standards, specifications, and schedules set forth herein or developed by Settling Defendants and approved by EPA pursuant to this Consent Decree; except that Settling Defendants' commitment, under this Consent Decree, to finance and perform additional remedial measures to achieve the Performance Standards for 1,4-dioxane shall be limited to a cost not to exceed \$7 million dollars. Settling Defendants shall also reimburse the United States for Future Response Costs as provided in this Consent Decree.

b. The obligations of Settling Defendants to finance and perform the Work and to pay amounts owed the United States under this Consent Decree are joint and several. In the event of the insolvency or other failure of any one or more Settling Defendants to implement the requirements of this Consent Decree, the remaining Settling Defendants shall complete all such requirements.

c. In the event that any of the Settling Defendants files for bankruptcy or is placed involuntarily in bankruptcy proceedings, such Settling Defendant shall notify the United States within three (3) days of such filing.

7. Compliance With Applicable Law

All activities undertaken by Settling Defendants pursuant to this Consent Decree shall be performed in accordance with the requirements of all applicable federal and state laws and regulations. Settling Defendants must also comply with all applicable or relevant and appropriate requirements of all Federal and State environmental laws as set forth in the ROD. The activities conducted pursuant to this Consent Decree, if approved by EPA, shall be considered to be consistent with the NCP.

8. Permits

1 a. As provided in Section 121(e) of CERCLA and Section 300.400(e) of the NCP, no
2 permit shall be required for any portion of the Work conducted entirely on-site (i.e., within the areal
3 extent of contamination or in very close proximity to the contamination and necessary for
4 implementation of the Work). Where any portion of the Work that is not on-site requires a federal
5 or State permit or approval, Settling Defendants shall submit timely and complete applications and
6 take all other actions necessary to obtain all such permits or approvals.

7 b. The Settling Defendants may seek relief under the provisions of Section XVIII (Force
8 Majeure) of this Consent Decree for any delay in the performance of the Work resulting from a failure
9 to obtain, or a delay in obtaining, any permit required for the Work.

10 c. This Consent Decree is not, and shall not be construed to be, a permit issued pursuant
11 to any federal or State statute or regulation.

12 9. Notice of Obligations to Successors-in-Title

13 a. RESERVED

14 b. At least thirty (30) days prior to the conveyance of any interest in property located
15 within the Site including, but not limited to, fee interests, leasehold interests, and mortgage interests,
16 the Owner Settling Defendant conveying the interest shall give the grantee written notice of (i) this
17 Consent Decree, (ii) any instrument by which an interest in real property has been conveyed that
18 confers a right of access to the Site (hereinafter referred to as "access easements") pursuant to Section
19 IX (Access and Institutional Controls), and (iii) any instrument by which an interest in real property
20 has been conveyed that confers a right to enforce restrictions on the use of such property (hereinafter
21 referred to as "restrictive easements") pursuant to Section IX (Access and Institutional Controls). At

1 least thirty (30) days prior to such conveyance, the Owner Settling Defendant conveying the interest
2 shall also give written notice to EPA and the State of the proposed conveyance, which notice shall
3 include the name and address of the grantee and the date on which notice of the Consent Decree,
4 access easements, and/or restrictive easements was given to the grantee.

5 c. In the event of any such conveyance, the Owner Settling Defendant's obligations under
6 this Consent Decree, including, but not limited to, its obligation to provide or secure access and
7 institutional controls, as well as to abide by such institutional controls, pursuant to Section IX (Access
8 and Institutional Controls) of this Consent Decree, shall continue to be met by the Owner Settling
9 Defendant. In no event shall the conveyance release or otherwise affect the liability of the Owner
10 Settling Defendant to comply with all provisions of this Consent Decree, absent the prior written
11 consent of EPA. If the United States approves, the grantee may perform some or all of the Work
12 under this Consent Decree.

13 **VI. PERFORMANCE OF THE WORK BY SETTling DEFENDANTS**

14 **10. Selection of Contractors.**

15 **a. Supervising Contractor.**

16 i. All aspects of the Work to be performed by Settling Defendants pursuant to
17 Sections VI (Performance of the Work by Settling Defendants), VII (Remedy Review), VIII (Quality
18 Assurance, Sampling, and Data Analysis), and XV (Emergency Response) of this Consent Decree
19 shall be under the direction and supervision of the EPA-accepted Supervising Contractor, Clean Sites
20 Environmental Services, Inc. If Settling Defendants propose to change the Supervising Contractor,

Settling Defendants shall notify EPA and the State in writing of the name, title, and qualifications of any contractor proposed to be the new Supervising Contractor. With respect to any contractor proposed to be new Supervising Contractor, Settling Defendants shall demonstrate that the proposed contractor has a quality system that complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA. Settling Defendants must obtain EPA's notice of acceptance of the proposed new Supervising Contractor before the new Supervising Contractor performs, directs, or supervises any Work under this Consent Decree.

ii. If EPA disapproves the selection of a proposed Supervising Contractor, EPA will notify Settling Defendants in writing. Settling Defendants shall submit to EPA and the State a list of at least three contractors, including the qualifications of each contractor, that would be acceptable to them within thirty (30) days of receipt of EPA's notice. EPA will provide written notice of the names of any contractor(s) whose selection it would accept. Settling Defendants may select any contractor from that list and shall notify EPA and the State of the name of the contractor selected within twenty-one (21) days of EPA's written notice.

iii. If EPA fails to provide written notice of its acceptance or disapproval as provided in this Paragraph and this failure prevents the Settling Defendants from meeting one or more deadlines in a plan approved by the EPA pursuant to this Consent Decree, Settling Defendants may

1 seek relief under the provisions of Section XVIII (Force Majeure) of this Consent Decree.

2 b. Other Contractors and Subcontractors.

3 1. The Settling Defendants shall submit to EPA and the State for acceptance by
4 EPA the names and qualifications of any additional contractors and subcontractors they propose to
5 use to satisfy any requirement of this Consent Decree before such contractor or subcontractor
6 performs any Work. If EPA does not respond with a notice accepting or disapproving the proposal
7 for additional contractors and subcontractors within fourteen (14) days of receipt by EPA of Settling
8 Defendants' selections, the proposal for additional contractors and subcontractors shall be deemed
9 accepted. In the event EPA disapproves any proposed contractor or subcontractor, Settling
10 Defendants shall submit to EPA and the State a list of at least three contractors or subcontractors,
11 including the qualifications of each, that would be acceptable to them within ten (10) days of receipt
12 of EPA's notice. EPA will provide written notice of the names of any contractor(s) or
13 subcontractor(s) whose selection it would accept. Settling Defendants may select any contractor or
14 subcontractor from that list and shall notify EPA and the State of the name of the contractor or
15 subcontractor selected within five (5) days of EPA's written notice.

16 11. Remedial Design/Remedial Action.

17 a. Within 60 days after the lodging of this Consent Decree, Settling Defendants shall
18 submit to EPA and the State a work plan for the design of the Remedial Action at the Site ("Remedial
19 Design Work Plan" or "RD Work Plan"). The RD Work Plan shall be prepared with input from the
20 individual(s) and/or entity(ies) responsible for completion of the Remedial Design, except to the
21 extent such persons have been disapproved by EPA. The Remedial Design Work Plan shall provide

for design of the remedy set forth in the ROD and for achievement of the Performance Standards and other requirements set forth in the ROD and this Consent Decree, including measures to achieve the Performance Standards for 1,4-dioxane, subject to Paragraph 6.a. of Section V (General Provisions) above. Upon its approval by EPA, the Remedial Design Work Plan shall be incorporated into and become enforceable under this Consent Decree. The Settling Defendants shall also submit to EPA and the State, at the time a Remedial Design Work Plan is submitted, a Health and Safety Plan for all field design and pre-design activities which conforms to the applicable Occupational Safety and Health Administration ("OSHA") and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

b. The Remedial Design Work Plan shall include plans, schedules, and methodologies for implementation of all remedial design and pre-design tasks, and shall include, at a minimum:

1. a Remedial Design Site Security Plan;
2. a Remedial Design Sampling and Analysis Plan, containing:
 - a. a Field Sampling Plan, which shall include sampling for 1,4-dioxane; and
 - b. a Quality Assurance Project Plan ("QAPP");
3. a Remedial Design Contingency Plan;
4. a Remedial Design Decontamination Plan;
5. a Treatability Study Work Plan which includes, at a minimum, plans and schedules for the preparation and submission of a Treatability Study Evaluation Report to address Site contaminants, including 1,4-dioxane;

6.
 - a. plans and schedules for submission of proposed performance standards (including action levels, cleanup standards and treatment standards) relating to 1,4-dioxane;
 - b. plans and schedules for submission of a detailed estimate of costs to achieve the proposed Performance Standards for 1,4-dioxane, including the identification of any tasks, in excess of \$7 million dollars, which Settling Defendants propose to decline performance of, in the event Settling Defendants estimate that the cost of achieving the proposed Performance Standards for 1,4-dioxane will exceed \$7 million dollars;
7. plans and schedules for the preparation and submission of a Preliminary Design Submittal (the preliminary design begins with the initial design and ends with the completion of approximately 30% of the design effort) containing, at a minimum:
 - a. a Design Criteria Report, including:
 1. project description;
 2. design requirements and provisions, including a complete description of how Performance Standards will be translated into engineering requirements;
 3. preliminary process flow diagrams;

4. chemical and geotechnical data (including data from pre-design activities);
5. operation & maintenance provisions that will have a significant influence on the design approach;
6. a description of EPA's revisions to the ROD remedy, if any, as a result of presence of 1,4-dioxane at the Site; and
- b. a Basis of Design Report, including:
 1. summary and justification of design assumptions;
 2. design calculations and any modeling results;
 3. a project delivery strategy;
 4. remedial action permits plan for off-site permits;
 5. preliminary easement/access requirements; and
- c. Preliminary Drawings and Specifications, including:
 1. an outline of general specifications;
 2. preliminary schematics and drawings; and
- d. a preliminary Remedial Action schedule.
8. plans and schedules for the preparation and submission of an intermediate design submittal which shall be submitted at approximately 60% percent of the design effort and shall address all of EPA's comments on the preliminary design and, at a minimum, additionally include:
 - a. a revised Design Criteria Report, if necessary;

- b. a revised Basis of Design Report, if necessary;
 - c. intermediate Drawings and Specifications;
 - d. a revised Remedial Action schedule;
 - e. a preliminary Remedial Action Contingency Plan;
 - f. a preliminary Construction Quality Assurance Plan ("CQAP")
(the CQAP, which shall detail the approach to quality assurance during construction and soil remediation activities at the Site, shall specify a quality assurance official ("QA Official"), independent of the Supervising Contractor, to conduct a quality assurance program during the construction and soil remediation phases of the project);
 - g. a preliminary Remedial Action Sampling and Analysis Plan
(directed at measuring progress towards meeting the Performance Standards); and
 - h. a preliminary Remedial Action Waste Management Plan;
9. plans and schedules for the preparation and submission of a pre-final design submittal which shall be submitted at approximately 90% of the design effort and shall address all of EPA's comments on the intermediate design, and, at a minimum, additionally include:
- a. draft final Drawings and Specifications;
 - b. a draft final Remedial Action schedule;

- c. a draft final Remedial Action Contingency Plan;
 - d. a draft final CQAP;
 - e. a draft final Remedial Action Sampling and Analysis Plan;
 - f. a draft final Remedial Action Waste Management Plan;
 - g. a preliminary Remedial Action Health and Safety Plan ("HASP")
which conforms to the applicable OSHA and EPA requirements,
including, but not limited to, 29 C.F.R. § 1910.120;
 - h. a preliminary Remedial Action Site Security Plan;
 - i. a preliminary Operation & Maintenance Plan; and
 - j. a preliminary Remedial Action Decontamination Plan;
10. plans and schedules for the preparation and submission of a final design
submittal which shall be submitted at 100% of the design effort and shall
address all of EPA's comments on the pre-final design, and, at a
minimum, additionally include:
- a. final Drawings and Specifications;
 - b. a final Remedial Action schedule;
 - c. a final Remedial Action Contingency Plan;
 - d. a final CQAP;
 - e. a final Remedial Action Sampling and Analysis Plan;
 - f. a final Remedial Action Waste Management Plan;
 - g. a final Design Criteria Report;

- h. a final Basis of Design Report;
- i. a revised Remedial Action HASP and a schedule for submission of the final HASP;
- j. a revised Remedial Action Site Security Plan and a schedule for submission of the final Site Security Plan;
- k. a revised Operation & Maintenance Plan and a schedule for submission of the final Operation & Maintenance Plan; and
- l. a revised Remedial Action Decontamination Plan and a schedule for submission of the final Decontamination Plan;

11. a Remedial Design schedule.

A four-step design review process may or may not be required, in EPA's discretion, for each component of the selected remedy for OU3. The project delivery strategy, which is a component of the Basis of Design Report (Paragraph 11.b, item 6.b) shall outline the level of design review for each component of the remedy. However Settling Defendants shall submit a preliminary, intermediate, pre-final and final design for each component of the selected remedy unless otherwise approved in writing by EPA.

c. Upon approval of the Remedial Design Work Plan by EPA, after a reasonable opportunity for review and comment by the State, and submittal of the Health and Safety Plan for all field activities to EPA and the State, Settling Defendants shall implement the Remedial Design Work Plan in accordance with the schedules and methodologies contained therein. The Settling Defendants shall submit to EPA and the State all plans, submittals, and other deliverables required under the

1 approved Remedial Design Work Plan in accordance with the approved schedule therein for review
2 and approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Unless
3 otherwise directed by EPA, Settling Defendants shall not commence further Remedial Design field
4 activities at the Site prior to approval of the Remedial Design Work Plan.

5 d. Upon approval, approval with conditions, or modification by EPA, as provided in
6 Section XI (EPA Approval of Plans and Other Submissions), of all components of the final design
7 submittal, the final design submittal shall serve as the Remedial Action Work Plan and shall be
8 enforceable under this Consent Decree. The Settling Defendants shall implement the activities
9 required under the Remedial Action Work Plan in accordance with the schedules and methodologies
10 contained therein.

11 e. The Settling Defendants shall submit all plans, submittals, or other deliverables
12 required under the Remedial Action Work Plan in accordance with the approved schedule for review
13 and approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Unless
14 otherwise directed by EPA or required under the Remedial Design Work Plan, the Settling
15 Defendants shall not commence physical activities (except continued operation of the existing ground
16 water recovery and treatment system) at the Site prior to the date for commencement set forth in the
17 approved schedule in the Remedial Action Work Plan.

18 12. Resident Engineer. Following EPA approval, approval with conditions, or modification by
19 EPA, as provided in Section XI (EPA Approval of Plans and Other Submissions), of the final design
20 submittal for each portion of the Remedial Action, and prior to commencement of any on-site Work
21 under such Remedial Action Work Plan, the Settling Defendants shall submit to EPA the name and

1 qualifications of the Resident Engineer for that portion of the Remedial Action or propose that no
2 Resident Engineer is required for that portion of the Remedial Action. The Resident Engineer, if
3 required by EPA, shall be present at the Site during that portion of the Remedial Action to ensure that
4 the Remedial Action is performed in accordance with the approved Remedial Action Work Plan. The
5 Resident Engineer shall be familiar with all aspects of the Remedial Design approved by EPA. EPA
6 retains the right to disapprove the use of any Resident Engineer proposed by Settling Defendants. In
7 the event EPA disapproves the use of any proposed Resident Engineer, Settling Defendants shall
8 submit to EPA and the State a list of at least three replacements, including the qualifications of each,
9 who would be acceptable to them within five (5) days of receipt of EPA's notice. EPA will provide
10 written notice of the names of any replacements whose use it would accept. Settling Defendants may
11 select any replacement from the EPA notice and shall notify EPA and the State of the name of the
12 replacement selected within three (3) days of EPA's written notice. Settling Defendants shall ensure
13 that the Resident Engineer performs on-site inspections as necessary to ensure compliance with the
14 approved Remedial Action Work Plan and that the results of such inspections are promptly provided
15 to Settling Defendants, EPA, and the State. The Resident Engineer may act as the QA Official.

16 13. The Settling Defendants shall continue to implement the Remedial Action and O & M until
17 the Performance Standards are achieved and for so long thereafter as is otherwise required under this
18 Consent Decree.

19 14. Modification of the Work.

20 a. If EPA determines that modification of the Work is necessary to achieve and maintain
21 the Performance Standards or to carry out and maintain the effectiveness of the remedy set forth in

1 the ROD, EPA may (1) require that such modification be incorporated into the Remedial Design
2 Work Plan, Remedial Action Work Plan, Operation and Maintenance Plan, and/or any other plan
3 relating to such Work, and/or (2) require that Settling Defendants submit a plan for EPA approval
4 which incorporates such modification to the Work and implements such approved plan, provided,
5 however, that a modification may be required pursuant to this Paragraph only to the extent that it is
6 consistent with the scope of the remedy selected in the ROD.

7 b. For the purposes of this Paragraph 14 and Paragraphs 50 and 51 only, the “scope of
8 the remedy selected in the ROD” means:

9 1. tasks employing a technology or combination of technologies discussed in
10 Section 11 (Selected Remedy) of the Decision Summary of the ROD to achieve and
11 maintain the objectives described in the ROD. The technologies discussed in Section 11
12 of the Decision Summary of the ROD include:

- 13 • pre-design studies to evaluate procedures to promote the natural
14 biodegradation processes occurring in the shallow ground water plume
- 15 • pre-remediation sampling and analysis to further delineate the soil,
16 sediment and waste material with contaminant concentrations that exceed
17 the action levels, including screening or sampling to identify non-aqueous
18 phase liquid (“NAPL”)
- 19 • excavation of soil, sediment and solid waste material with contaminant
20 concentrations exceeding the action levels and removal of any identified
21 NAPL

- on-site treatment of soil, sediment and waste material using low-temperature thermal desorption and treatment of off-gases using particulate and vapor emission control systems
- off-site disposal of a limited volume of soil, sediment and solid waste material that may not be effectively treated on-site
- collection and off-site disposal of any NAPL identified during remedial design or the excavation and dewatering of soil
- backfilling of the excavations with treated soil
- placement of clean soil and establishment of a stable, vegetated cover over the backfilled areas
- expansion of the shallow ground water interceptor trenches to connect existing trenches 1 and 2
- enhanced biodegradation of contaminants in the ground water of the Upper Sand aquifer (i.e., the shallow ground water)
- continued operation of the existing ground water recovery and treatment system until the ground water cleanup levels are achieved.

2. tasks associated with monitoring Site conditions and the effectiveness of the Remedial Action with respect to Operable Unit Three at the Site;

3. implementation of institutional controls included in the ROD; and

4. tasks associated with achieving the Performance Standards for 1, 4-dioxane at the Site, subject to Paragraph 6.a. of Section V (General Provisions) of this Consent

Decree.

c. If Settling Defendants object to any modification determined by EPA to be necessary pursuant to this Paragraph, they may seek dispute resolution pursuant to Section XIX (Dispute Resolution), Paragraph 68 (record review). The Remedial Design Work Plan, Remedial Action Work Plan, Operation and Maintenance Plan, and/or related work plans shall be modified in accordance with final resolution of the dispute.

d. Settling Defendants shall implement any work required by any modifications incorporated in the Remedial Design Work Plan, Remedial Action Work Plan, Operation and Maintenance Plan, and/or in work plans developed in accordance with this Paragraph.

e. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions as otherwise provided in this Consent Decree.

15. Settling Defendants acknowledge and agree that nothing in this Consent Decree or the Remedial Design or Remedial Action Work Plans constitutes a warranty or representation of any kind by Plaintiff that compliance with the work requirements set forth in the Work Plans will achieve the Performance Standards.

16. Settling Defendants shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving facility's state and to the EPA Project Coordinator of such shipment of Waste Material. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed ten (10) cubic yards.

a. The Settling Defendants shall include in the written notification the following

information, where available:

1. the name and location of the facility to which the Waste Material is to be shipped;
2. the type and quantity of the Waste Material to be shipped;
3. the expected schedule for the shipment of the Waste Material; and
4. the method of transportation.

The Settling Defendants shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by the Settling Defendants following the award of the contract for Remedial Action construction. The Settling Defendants shall provide the information required by Paragraph 16.a as soon as practicable after the award of the contract but in no case less than seven (7) days before the Waste Material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Settling Defendants shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of Section 121(d)(3) of CERCLA and 40 C.F.R. § 300.440. Settling Defendants shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulations cited in the preceding sentence.

VII. REMEDY REVIEW

17. Periodic Review. Settling Defendants shall conduct any studies and investigations as requested by EPA, in order to permit EPA to conduct reviews of whether the Remedial Action is protective of human health and the environment, at least every five (5) years as required by Section 121(c) of CERCLA and any applicable regulations.

18. EPA Selection of Further Response Actions. If EPA determines, at any time, that the Remedial Action is not protective of human health and the environment, EPA may select further response actions for the Site in accordance with the requirements of CERCLA and the NCP.

19. Opportunity To Comment. If required by Sections 113(k)(2) or 117 of CERCLA, the public, including the Settling Defendants, will be provided with an opportunity to comment on any further response actions proposed by EPA as a result of the review conducted pursuant to Section 121(c) of CERCLA and to submit written comments for the record during the comment period.

20. Settling Defendants' Obligation To Perform Further Response Actions. If EPA selects further response actions for the Site, the Settling Defendants shall undertake such further response actions to the extent that the reopener conditions in Paragraph 83 or Paragraph 84 (United States' reservations of liability based on unknown conditions or new information) are satisfied. If EPA requires Settling Defendants to undertake such further actions pursuant to this Paragraph, Settling Defendants may invoke the procedures set forth in Section XIX (Dispute Resolution) to dispute (1) EPA's determination that the reopener conditions of Paragraph 83 or Paragraph 84 of Section XXI (Covenants Not To Sue by Plaintiff) are satisfied, (2) EPA's determination that the Remedial Action is not protective of human health and the environment, or (3) EPA's selection of the further response

actions. Disputes pertaining to whether the Remedial Action is protective or to EPA's selection of further response actions shall be resolved pursuant to Paragraph 68 (record review).

21. Submissions of Plans. If Settling Defendants are required to perform the further response actions pursuant to Paragraph 20, they shall submit a plan for such work to EPA for approval in accordance with the procedures set forth in Section VI (Performance of the Work by Settling Defendants) and shall implement the plan approved by EPA in accordance with the provisions of this Decree.

VIII. QUALITY ASSURANCE, SAMPLING, AND DATA ANALYSIS

22. While conducting all sample collection and analysis activities required by this Consent Decree, the Settling Defendants shall implement quality assurance, quality control, and chain of custody procedures in accordance with "EPA Requirements for Quality Assurance Project Plans (EPA QA/R-5)" (EPA/240/B-01/003, March 2001); "EPA NEIC Policies and Procedures Manual" (EPA 330/9-78-001-R, May 1986); "Modifications to the National Functional Guidelines for Inorganic Data Review" (EPA Region III, April 1993); "Modifications to the National Functional Guidelines for Organic Data Review" (EPA Region III, September 1994); "Region III Innovative Approaches to Data Validation" (EPA Region III, September 1994); "Guidance for the Data Quality Objectives Process (EPA QA/G-4)" (EPA/600/R-96/055, September 2000); "Data Quality Objectives for Hazardous Waste Site Investigations (EPA QA/G-4HW)" (EPA/600/R-00/007, January 2000); "Data Quality Objectives Process for Superfund" (EPA 540/R-93/071, September 1994); and subsequent amendments to such guidelines upon notification by EPA to Settling Defendants of such amendment.

Amended guidelines shall apply only to procedures conducted after such notification. Prior to the

1 commencement of any monitoring project under this Consent Decree, Settling Defendants shall
2 submit to EPA for approval, after a reasonable opportunity for review and comment by the State, a
3 Quality Assurance Project Plan ("QAPP") for the Work that is consistent with the NCP and the
4 guidance documents cited above. If relevant to the proceeding, the Parties agree that validated
5 sampling data generated in accordance with the QAPP(s) and reviewed and approved by EPA shall
6 be admissible as evidence, without objection, in any proceeding under this Decree. Settling
7 Defendants shall ensure that EPA personnel and its authorized representatives are allowed access at
8 reasonable times to all laboratories utilized by Settling Defendants in implementing this Consent
9 Decree. In addition, Settling Defendants shall ensure that such laboratories shall analyze all samples
10 submitted by EPA pursuant to the QAPP for quality assurance monitoring. Settling Defendants shall
11 ensure that the laboratories they utilize for the analysis of samples taken pursuant to this Decree
12 perform all analyses according to accepted EPA methods. Settling Defendants shall submit to EPA
13 the selected laboratory's(ies') Quality Assurance Program Plan and their qualifications, which shall
14 include, at a minimum, previous certifications, Performance Evaluation (PE) results, equipment lists
15 and personnel resumes. Settling Defendants shall ensure that all field methodologies utilized in
16 collecting samples for subsequent analysis pursuant to this Decree will be conducted in accordance
17 with the procedures set forth in the QAPP approved by EPA. At the request of EPA, Settling
18 Defendants shall conduct one or more audits of the selected laboratory(ies) to verify analytical
19 capability and compliance with the QAPP. Auditors shall conduct lab audits during the time the
20 laboratory(ies) is analyzing samples collected pursuant to this Consent Decree. The lab audit shall
21 be conducted according to procedures available from EPA Region III's Quality Assurance Branch.

Audit reports shall be submitted to the EPA Project Coordinator within fifteen (15) days of completion of the audit. The Settling Defendants shall report serious deficiencies, including all those which adversely impact data quality, reliability or accuracy, and take action to correct such deficiencies within twenty-four (24) hours of the time the Settling Defendants knew or should have known of the deficiency.

23. Upon request, the Settling Defendants shall allow split or duplicate samples to be taken by EPA or its authorized representatives. Settling Defendants shall notify EPA not less than twenty-one (21) days in advance of any collection activity unless shorter notice is agreed to by EPA. In addition, EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall allow the Settling Defendants to take split or duplicate samples of any samples it takes as part of the Plaintiff's oversight of the Settling Defendants' implementation of the Work.

24. Settling Defendants shall submit to EPA and the State two (2) copies of the results of all sampling and/or tests or other data obtained or generated by or on behalf of Settling Defendants with respect to the Site and/or the implementation of this Consent Decree unless EPA agrees otherwise. EPA agrees that electronic copies of data submissions satisfy the requirements of this Paragraph, provided that they are submitted in a format that is acceptable to EPA and the State, or unless otherwise specified by EPA.

25. Notwithstanding any provision of this Consent Decree, the United States hereby retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

IX. ACCESS AND INSTITUTIONAL CONTROLS

26. If the Site, or any other property where access and/or land/water use restrictions are needed to implement this Consent Decree, is owned or controlled by any of the Settling Defendants, such Settling Defendants shall:

a. commencing on the date of lodging of this Consent Decree, provide the United States and its representatives, including EPA and its contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Consent Decree including, but not limited to, the following activities:

- i. Monitoring the Work;
- ii. Verifying any data or information submitted to the United States;
- iii. Conducting investigations relating to contamination at or near the Site;
- iv. Obtaining samples;
- v. Assessing the need for, planning, or implementing additional response actions at or near the Site;
- vi. Assessing implementation of quality assurance and quality control practices as defined in the approved Quality Assurance Project Plans;
- vii. Implementing the Work pursuant to the conditions set forth in Paragraph 87 of this Consent Decree (Work Takeover);
- viii. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendants or their agents, consistent with Section XXIV;

ix. Assessing Settling Defendants' compliance with this Consent Decree; and

ix. Determining whether the Site or other property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Consent Decree;

b. commencing on the date of lodging of this Consent Decree, refrain from using the Site, or such other property, in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of the remedial measures to be performed pursuant to this Consent Decree. Such restrictions include, but are not limited to, prohibition of land use which EPA concludes could interfere with the ground water pump and treat system or the biodegradation and natural attenuation portions of the selected remedy until the ground water cleanup standards are met, and prevention of the use of ground water for consumption and/or showering until the ground water cleanup standards are met; and

c. execute and record in the office of the clerk of the circuit court of Cecil County, State of Maryland, an easement, running with the land, that (i) grants a right of access for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities listed in Paragraph 26(a) of this Consent Decree, and (ii) grants the right to enforce the land/water use restrictions listed in Paragraph 26(b) of this Consent Decree, or other restrictions that EPA determines are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures to be performed pursuant to this Consent Decree. Such Settling Defendants shall grant the access rights and the rights to enforce the land/water use restrictions to (i) the other Settling Defendants and their representatives. Such Settling Defendants shall, within forty-five (45) days of

entry of this Consent Decree, submit to EPA for review and approval with respect to such property:

(1) A draft easement, in substantially the form attached hereto as Appendix D, that is enforceable under the laws of the State of Maryland; and

(2) a current title insurance commitment or some other evidence of title acceptable to EPA, which shows title to the land described in the easement to be free and clear of all prior liens and encumbrances (except when those liens or encumbrances are approved by EPA or when, despite best efforts, Settling Defendants are unable to obtain release or subordination of such prior liens or encumbrances).

Within fifteen (15) days of EPA's approval and acceptance of the easement and the title evidence, such Settling Defendants shall update the title search and, if it is determined that nothing has occurred since the effective date of the commitment to affect the title adversely, record the easement with the office of the clerk of the circuit court of Cecil County. Within thirty (30) days of recording the easement, such Settling Defendants shall provide EPA with a final title insurance policy, or other final evidence of title acceptable to EPA, and a certified copy of the original recorded easement showing the clerk's recording stamps.

27. If the Site, or any other property where access and/or land/water use restrictions are needed to implement this Consent Decree, is owned or controlled by persons other than any of the Settling Defendants, Settling Defendants shall use best efforts to secure from such persons:

a. an agreement to provide access thereto for Settling Defendants, as well as for the United States on behalf of EPA, as well as its representatives (including contractors), for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities listed in Paragraph 26(a) of this Consent Decree;

b. an agreement, enforceable by the Settling Defendants and the United States, to refrain from using the Site, or such other property, in any manner that would interfere with or adversely

1 affect the implementation, integrity, or protectiveness of the remedial measures to be performed
2 pursuant to this Consent Decree. Such restrictions include, but are not limited to, prohibition of land
3 use which could interfere with the ground water pump and treat system or the biodegradation and
4 natural attenuation portions of the selected remedy, and prevention of the use of ground water for
5 consumption and/or showering until the ground water cleanup standards are met; and

6 c. the execution and recordation in the office of the clerk of the circuit court of Cecil
7 County, State of Maryland, of an easement, running with the land, that (i) grants a right of access for
8 the purpose of conducting any activity related to this Consent Decree including, but not limited to,
9 those activities listed in Paragraph 26(a) of this Consent Decree, and (ii) grants the right to enforce
10 the land/water use restrictions listed in Paragraph 26(b) of this Consent Decree, or other restrictions
11 that EPA determines are necessary to implement, ensure non-interference with, or ensure the
12 protectiveness of the remedial measures to be performed pursuant to this Consent Decree. The access
13 rights and/or rights to enforce land/water use restrictions shall be granted to (i) the Settling
14 Defendants and their representatives. Within forty-five (45) days of entry of this Consent Decree,
15 Settling Defendants shall submit to EPA for review and approval with respect to such property:

16 (1) A draft easement, in substantially the form attached hereto as Appendix
17 D, that is enforceable under the laws of the State of Maryland; and

18 (2) a current title insurance commitment, or some other evidence of title
19 acceptable to EPA, which shows title to the land described in the easement to be free and
20 clear of all prior liens and encumbrances (except when those liens or encumbrances are
21 approved by EPA or when, despite best efforts, Settling Defendants are unable to obtain
22 release or subordination of such prior liens or encumbrances).

23 Within fifteen (15) days of EPA's approval and acceptance of the easement and the title evidence,
24 such Settling Defendants shall update the title search and, if it is determined that nothing has occurred

1 since the effective date of the commitment to affect the title adversely, record the easement with the
2 Recorder's Office of Cecil County. Within thirty (30) days of recording the easement, such Settling
3 Defendants shall provide EPA with a final title insurance policy, or other final evidence of title
4 acceptable to EPA, and a certified copy of the original recorded easement showing the clerk's
5 recording stamps. If the easement is to be conveyed to the United States, the easement and title
6 evidence (including final title evidence) shall be prepared in accordance with the U.S. Department
7 of Justice Title Standards 2001, and approval of the sufficiency of title must be obtained as required
8 by 40 U.S.C. § 255.

9 28. For purposes of Paragraph 27 of this Consent Decree, "best efforts" includes the payment
10 of reasonable sums of money in consideration of access, access easements, land/water use restrictions,
11 restrictive easements, and/or an agreement to release or subordinate a prior lien or encumbrance;
12 provided, however, that EPA acknowledges that the payment of money by Settling Defendants is not
13 required to procure access , access easements, land/water use restrictions, restrictive easements, and
14 /or an agreement to release or subordinate a prior lien or encumbrance from any party identified by
15 EPA as a potentially responsible party ("PRP") for the Site. If (a) any access or land/water use
16 restriction agreements required by Paragraphs 27(a) or 27(b) of this Consent Decree are not obtained
17 within forty-five (45) days of the date of entry of this Consent Decree, (b) any access easements or
18 restrictive easements required by Paragraph 27(c) of this Consent Decree are not submitted to EPA
19 in draft form within forty-five (45) days of the date of entry of this Consent Decree, or (c) Settling
20 Defendants are unable to obtain an agreement pursuant to Paragraph 26.c.(1) or Paragraph 27.c.(1)
21 from the holder of a prior lien or encumbrance to release or subordinate such lien or encumbrance to

1 the easement being created pursuant to this Consent Decree within forty-five (45) days of the date of
2 entry of this Consent Decree, Settling Defendants shall promptly notify the United States in writing,
3 and shall include in that notification a summary of the steps that Settling Defendants have taken to
4 attempt to comply with Paragraph 27 of this Consent Decree. The United States may, as it deems
5 appropriate, assist Settling Defendants in obtaining access or land/water use restrictions, either in the
6 form of contractual agreements or in the form of easements running with the land, or in obtaining the
7 release or subordination of a prior lien or encumbrance. Settling Defendants shall reimburse the
8 United States in accordance with the procedures in Section XVI (Payments for Response Costs), for
9 all costs incurred, direct or indirect, by the United States in obtaining such access, land/water use
10 restrictions, and/or the release/subordination of prior liens or encumbrances including, but not limited
11 to, the cost of attorney time and the amount of monetary consideration paid or just compensation.

12 29. If EPA determines that land/water use restrictions in the form of State or local laws,
13 regulations, ordinances or other governmental controls are needed to implement the remedy selected
14 in the ROD or to achieve the Performance Standards for 1,4-dioxane, to ensure the integrity and
15 protectiveness thereof, or to ensure non-interference therewith, Settling Defendants shall cooperate
16 with EPA's and the State's efforts to secure such governmental controls.

17 30. Notwithstanding any provision of this Consent Decree, the United States retains all of its
18 access authorities and rights, as well as all of its rights to require land/water use restrictions, including
19 enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statute or
20 regulations.

X. REPORTING REQUIREMENTS

31. In addition to any other requirement of this Consent Decree, Settling Defendants shall submit to EPA and the State two (2) copies each of written progress reports. Progress reports shall be submitted monthly during any soil remediation activities and quarterly thereafter, unless otherwise specified by EPA. The progress reports shall: (a) describe the actions which have been taken toward achieving compliance with this Consent Decree during the previous reporting period; (b) include a summary of all results of sampling and tests and all other data received or generated by Settling Defendants or their contractors or agents in the previous reporting period; (c) identify all work plans, plans, and other deliverables required by this Consent Decree completed and submitted during the previous reporting period; (d) describe all actions, including, but not limited to, data collection and implementation of work plans, which are scheduled for the next reporting period and provide other information relating to the progress of construction, including, but not limited to, critical path diagrams, Gantt charts, and Pert charts; (e) include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of the Work, and a description of efforts made to mitigate those delays or anticipated delays; (f) include any modifications to the work plans or schedules that Settling Defendants have proposed to EPA or that have been approved by EPA; and (g) describe all activities undertaken in support of the Community Relations Plan during the previous reporting period and those to be undertaken in the next period. Settling Defendants shall submit these progress reports to EPA and the State by the tenth day after the end of every reporting period, following the lodging of this Consent Decree until EPA notifies the Settling Defendants pursuant to Paragraph 51.b of Section XIV (Certification of

Completion). If requested by EPA, Settling Defendants shall also provide briefings for EPA to discuss the progress of the Work.

32. The Settling Defendants shall notify EPA of any change in the schedule described in the progress report for the performance of any activity, including, but not limited to, implementation of work plans, no later than seven (7) days prior to the performance of the activity. Notwithstanding the foregoing, the Settling Defendants shall notify EPA of any change in the schedule described in the progress reports for the performance of data collection no later than twenty-one (21) days prior to the performance of such activity.

33. Upon the occurrence of any event during performance of the Work that Settling Defendants are required to report pursuant to Section 103 of CERCLA or Section 304 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), Settling Defendants shall within twenty-four (24) hours of the onset of such event orally notify the EPA Project Coordinator or the Alternate EPA Project Coordinator (in the event of the unavailability of the EPA Project Coordinator), or, in the event that neither the EPA Project Coordinator or Alternate EPA Project Coordinator is available, the EPA Region III Hotline at (215) 814-3255. These reporting requirements are in addition to the reporting required by CERCLA § 103 or EPCRA § 304.

34. Within twenty (20) days of the onset of such an event, Settling Defendants shall furnish to Plaintiff a written report, signed by the Settling Defendants' Project Coordinator, setting forth the events which occurred and the measures taken, and to be taken, in response thereto. Within thirty (30) days of the conclusion of such an event, Settling Defendants shall submit a report setting forth all actions taken in response thereto.

35. Unless otherwise requested by EPA, Settling Defendants shall submit eight (8) copies of all plans, reports, and data required by the Remedial Design Work Plan, the Remedial Action Work Plan, or any other approved plans to EPA in accordance with the schedules set forth in such plans. Settling Defendants shall simultaneously submit two (2) copies of all such plans, reports, and data to the State. Upon request by EPA, Settling Defendants shall submit in electronic form all portions of any report or other deliverable Settling Defendants are required to submit pursuant to the provisions of this Consent Decree.

36. All reports and other documents submitted by Settling Defendants to EPA (other than the progress reports referred to above) which purport to document Settling Defendants' compliance with the terms of this Consent Decree shall be signed by a Duly Authorized Representative of the Settling Defendants.

XI. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

37. After review of any plan, report or other item which is required to be submitted for approval pursuant to this Consent Decree, EPA, after reasonable opportunity for review and comment by the State shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that the Settling Defendants modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Settling Defendants at least one notice of deficiency and an opportunity to cure within thirty (30) days, or such other time as specified by EPA in such notice, except where to do so would cause

serious disruption to the Work, or where (a) previous submission(s) have been disapproved due to material defects and the deficiencies in the submission under consideration indicate to EPA a bad faith lack of effort to submit an acceptable deliverable.

38. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Paragraph 37(a), (b), or (c), Settling Defendants shall proceed to take any action required by the plan, report, or other item, as approved or modified by EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XIX (Dispute Resolution) with respect to the modifications or conditions made by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Paragraph 37(c) and the submission has a material defect, EPA retains its right to seek stipulated penalties, as provided in Section XX (Stipulated Penalties).

39. a. Upon receipt of a notice of disapproval pursuant to Paragraph 37(d), Settling Defendants shall, within thirty (30) days, or such other time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other item for approval. Any stipulated penalties applicable to the submission, as provided in Section XX, shall accrue during the thirty (30)-day period, or otherwise specified period, but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 40 and 41.

b. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 37(d), Settling Defendants shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Settling Defendants of any liability for stipulated penalties under Section XX (Stipulated Penalties).

1 40. In the event that a resubmitted plan, report or other item, or portion thereof, is disapproved
2 by EPA, EPA may again require the Settling Defendants to correct the deficiencies, in accordance
3 with the preceding Paragraphs. EPA also retains the right to modify or develop the plan, report or
4 other item. Settling Defendants shall implement any such plan, report, or item as modified or
5 developed by EPA, subject only to their right to invoke the procedures set forth in Section XIX
6 (Dispute Resolution).

7 41. If upon resubmission, a plan, report, or item is disapproved, developed, or modified by EPA
8 due to a material defect, Settling Defendants shall be deemed to have failed to submit such plan,
9 report, or item timely and adequately unless the Settling Defendants invoke the dispute resolution
10 procedures set forth in Section XIX (Dispute Resolution) and EPA's action is overturned pursuant to
11 that Section. The provisions of Section XIX (Dispute Resolution) and Section XX (Stipulated
12 Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated
13 penalties during Dispute Resolution. If EPA's disapproval or modification is upheld, stipulated
14 penalties shall accrue for such violation from the date on which the initial submission was originally
15 required, as provided in Section XX.

16 42. All plans, reports, and other items required to be submitted to EPA under this Consent
17 Decree shall, upon approval or modification by EPA, be enforceable under this Consent Decree. In
18 the event EPA approves or modifies a portion of a plan, report, or other item required to be submitted
19 to EPA under this Consent Decree, the approved or modified portion shall be enforceable under this
20 Consent Decree.

XII. PROJECT COORDINATORS

43. The EPA Project Coordinator and Alternate Project Coordinator for this Site are:

EPA Project Coordinator:

Debra Rossi (3HS23)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103
(215) 814-3228 (phone)
(215) 814-3002 (telefax)

EPA Alternate Project Coordinator:

Peter Ludzia (3HS23)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103
(215) 814-3224 (phone)
(215) 814-3002 (telefax)

Settling Defendants' Project Coordinator and Alternate Project Coordinator for this Site are:

Settling Defendants' Project Coordinator:

Douglas Ammon, PE
Clean Sites Environmental Services, Inc.
228 S. Washington Street, Suite 115
Alexandria, VA 22314
(703) 519-2135 (phone)
(703) 519-2141 (telefax)

Settling Defendants' Alternate Project Coordinator

Scott Miller, PE
Clean Sites Environmental Services, Inc.
228 S. Washington Street, Suite 115
Alexandria, VA 22314
(703) 519-2142 (phone)
(703) 519-2141 (telefax)

1 If a Project Coordinator or Alternate Project Coordinator initially designated is changed, the identity
2 of the successor will be given to the other Parties at least five (5) working days before the changes
3 occur, unless impracticable, but in no event later than the actual day the change is made. The Settling
4 Defendants' Project Coordinator and Alternate Project Coordinator shall be subject to acceptance or
5 disapproval by EPA and shall have the technical expertise sufficient to adequately oversee all aspects
6 of the Work. The Settling Defendants' Project Coordinator and Alternate Project Coordinator shall
7 not be an attorney for any of the Settling Defendants in this matter. The Settling Defendants' Project
8 Coordinator and Alternate Project Coordinator may assign other representatives, including other
9 contractors, to serve as a Site representative for oversight of performance of daily operations during
10 remedial activities.
11

12 44. Plaintiff may designate other representatives, including, but not limited to, EPA employees,
13 and federal contractors and consultants, to observe and monitor the progress of any activity
14 undertaken pursuant to this Consent Decree. EPA's Project Coordinator and Alternate Project
15 Coordinator shall have the authority lawfully vested in a Remedial Project Manager ("RPM") and an
16 On-Scene Coordinator ("OSC") by the National Contingency Plan, 40 C.F.R. Part 300. In addition,
17 EPA's Project Coordinator and Alternate Project Coordinator shall have authority, consistent with the
18 National Contingency Plan, to halt any Work required by this Consent Decree and to take any
19 necessary response action when s/he determines that conditions at the Site constitute an emergency
20 situation or may present an immediate threat to public health or welfare or the environment due to
21 the release or threatened release of Waste Material.

22 45. RESERVED

XIII. ASSURANCE OF ABILITY TO COMPLETE WORK

46. Within thirty (30) days of entry of this Consent Decree, Settling Defendants shall establish and maintain financial security in the amount of \$24 million in one or more of the following forms:

(a) A surety bond guaranteeing performance of the Work;

(b) One or more irrevocable letters of credit equaling the total estimated cost of the Work;

(c) A trust fund;

(d) A guarantee to perform the Work by one or more parent corporations or subsidiaries, or by one or more unrelated corporations that have a substantial business relationship with at least one of the Settling Defendants; or

(e) A demonstration that one or more of the Settling Defendants satisfy the requirements of 40 C.F.R. § 264.143(f). For these purposes, references in 40 C.F.R. § 264.143(f) to "the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates" shall mean the amount of financial security specified above. If the Settling Defendant(s) who seek(s) to provide a demonstration under 40 CFR § 264.143(f) has (have) provided a similar demonstration at other RCRA or CERCLA sites, the amount for which it (they) was (were) providing financial assurance at those other sites shall be added to the estimated costs of the Work from this paragraph.

Such financial security shall be maintained by the Settling Defendants until EPA agrees that the Work has been completed and issues a Certification of Completion in accordance with Paragraph 51.b.

47. If the Settling Defendants seek to demonstrate the ability to complete the Work through a guarantee by a third party pursuant to Paragraph 46(d) of this Consent Decree, Settling Defendants

shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. § 264.143(f). If Settling Defendants seek to demonstrate their ability to complete the Work by means of the financial test or the corporate guarantee pursuant to Paragraph 46(d) or (e), they shall resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date. In the event that EPA, after a reasonable opportunity for review and comment by the State, determines at any time that the financial assurances provided pursuant to this Section are inadequate, Settling Defendants shall, within thirty (30) days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 46 of this Consent Decree. Settling Defendants' inability to demonstrate financial ability to complete the Work shall not excuse performance of any activities required under this Consent Decree.

48. If Settling Defendants can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 46 above after entry of this Consent Decree, Settling Defendants may, on any anniversary date of entry of this Consent Decree, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining work to be performed. Settling Defendants shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security upon approval by EPA. In the event of a dispute, Settling Defendants may reduce the amount of the security in accordance with the final administrative or judicial decision resolving the dispute.

49. Settling Defendants may change the form of financial assurance provided under this Section

at any time, upon notice to and approval by EPA, provided that the new form of assurance meets the requirements of this Section. In the event of a dispute, Settling Defendants may change the form of the financial assurance only in accordance with the final administrative or judicial decision resolving the dispute.

XIV. CERTIFICATION OF COMPLETION

50. Completion of the Remedial Action

a. Within ninety (90) days after Settling Defendants conclude that the Remedial Action has been fully performed and that the Performance Standards have been attained, in accordance with the ROD and this Consent Decree, Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants and EPA. If, after the pre-certification inspection, the Settling Defendants still believe that the Remedial Action has been fully performed and the Performance Standards have been attained, they shall submit a written report requesting certification to EPA for approval, with a copy to the State, pursuant to Section XI (EPA Approval of Plans and Other Submissions) within thirty (30) days of the inspection. In the report, a registered professional engineer and the Settling Defendants' Project Coordinator shall state that the Remedial Action has been completed in full satisfaction of the requirements of this Consent Decree. The written report shall include as-built drawings signed and stamped by a professional engineer. The report shall contain the following statement, signed by a Duly Authorized Representative of a Settling Defendant or the Settling Defendants' Project Coordinator:

“To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware

1 that there are significant penalties for submitting false information, including the possibility
2 of fine and imprisonment for knowing violations.”

3 If, after completion of the pre-certification inspection and receipt and review of the written report,
4 EPA, after reasonable opportunity for review and comment by the State, determines that the Remedial
5 Action or any portion thereof has not been completed in accordance with this Consent Decree or that
6 the Performance Standards have not been achieved, EPA will notify Settling Defendants in writing
7 of the activities that must be undertaken by Settling Defendants pursuant to this Consent Decree to
8 complete the Remedial Action and achieve the Performance Standards. Provided, however, that EPA
9 may only require Settling Defendants to perform such activities pursuant to this Paragraph to the
10 extent that such activities are consistent with the scope of the remedy selected in the ROD, as that
11 term is defined in Paragraph 14.b. EPA will set forth in the notice a schedule for performance of
12 such activities consistent with the Consent Decree or require the Settling Defendants to submit a
13 schedule to EPA for approval pursuant to Section XI (EPA Approval of Plans and Other
14 Submissions). Settling Defendants shall perform all activities described in the notice in accordance
15 with the specifications and schedules established pursuant to this Paragraph, subject to their right to
16 invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution).

17 b. If EPA concludes, based on the initial or any subsequent report requesting Certification
18 of Completion and after a reasonable opportunity for review and comment by the State, that the
19 Remedial Action has been performed in accordance with this Consent Decree and that the
20 Performance Standards have been achieved, EPA will so certify in writing to Settling Defendants.
21 This certification shall constitute the Certification of Completion of the Remedial Action for purposes

of this Consent Decree, including, but not limited to, Section XXI (Covenants Not to Sue by Plaintiff). Certification of Completion of the Remedial Action shall not affect Settling Defendants' obligations under this Consent Decree.

51. Completion of the Work

a. Within ninety (90) days after Settling Defendants conclude that all phases of the Work (including O & M), have been fully performed, Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants and EPA. If, after the pre-certification inspection, the Settling Defendants still believe that the Work has been fully performed, Settling Defendants shall submit a written report by a registered professional engineer stating that the Work has been completed in full satisfaction of the requirements of this Consent Decree. The report shall contain the following statement, signed by a Duly Authorized Representative of a Settling Defendant or the Settling Defendants' Project Coordinator:

"To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

If, after review of the written report, EPA, after reasonable opportunity for review and comment by the State, determines that any portion of the Work has not been completed in accordance with this Consent Decree, EPA will notify Settling Defendants in writing of the activities that must be undertaken by Settling Defendants pursuant to this Consent Decree to complete the Work. Provided, however, that EPA may only require Settling Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the scope of the remedy selected in the ROD, as that term is defined in Paragraph 14.b. EPA will set forth in the notice a schedule for

performance of such activities consistent with the Consent Decree or require the Settling Defendants to submit a schedule to EPA for approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Settling Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established therein, subject to their right to invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution).

b. If EPA concludes, based on the initial or any subsequent request for Certification of Completion by Settling Defendants and after a reasonable opportunity for review and comment by the State, that the Work has been performed in accordance with this Consent Decree, EPA will so notify the Settling Defendants in writing.

XV. EMERGENCY RESPONSE

52. In the event of any action or occurrence during the performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Defendants shall, subject to Paragraph 53, immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall immediately notify the EPA's Project Coordinator, or, if the Project Coordinator is unavailable, EPA's Alternate Project Coordinator. If neither of these persons is available, the Settling Defendants shall notify the EPA Region III Hotline at (215) 814-3255. Settling Defendants shall take such actions in consultation with EPA's Project Coordinator or other available authorized EPA officer and in accordance with all applicable provisions of the Health and Safety Plans, the Contingency Plans, and any other applicable plans or documents developed pursuant

to this Consent Decree. In the event that Settling Defendants fail to take appropriate response action as required by this Section, and EPA takes such action instead, Settling Defendants shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVI (Payments for Response Costs).

53. Nothing in the preceding Paragraph or in this Consent Decree shall be deemed to limit any authority of the United States to (a) take all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, or (b) direct or order such action, or seek an order from the Court, to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, subject to Section XXI (Covenants Not to Sue by Plaintiff).

XVI. PAYMENTS FOR RESPONSE COSTS

54. Past Response Costs.

The United States agrees not to seek payment of Past Response Costs from Settling Defendants, in consideration for this Consent Decree wherein Settling Defendants have agreed to perform the Work and to pay Future Response Costs.

55. Payments for Future Response Costs.

Settling Defendants shall pay to EPA all Future Response Costs not inconsistent with the National Contingency Plan excluding the first \$800,000 of Future Oversight Costs. On a periodic basis, the United States will send Settling Defendants a bill requiring payment that includes a cost

summary, setting forth direct and indirect costs incurred by EPA, DOJ, and their contractors. Settling Defendants shall make all payments within thirty (30) days of Settling Defendants' receipt of each bill requiring payment, except as otherwise provided in Paragraph 56. Settling Defendants shall make all payments required by this Paragraph by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," and referencing the name and address of the party making the payment, EPA Site/Spill ID No. 0342, and DOJ Case Number 90-11-2-225A. Settling Defendants shall send the check(s) to United States Environmental Protection Agency, Region III, Attention: Superfund Accounting, P.O. Box 360515, Pittsburgh, PA 15251-6515, and shall send copies of the check(s) to the United States as specified in Section XXVI (Notices and Submissions) and to the Docket Clerk (3RC00), United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. The total amount to be paid by Settling Defendants pursuant to Paragraph 55 shall be deposited in the EPA Hazardous Substance Superfund.

56. Settling Defendants may contest payment of any Future Response Costs under Paragraph 55 if they determine that the United States has made an accounting error or if they allege that a cost item that is included represents costs that are inconsistent with the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the United States pursuant to Section XXVI (Notices and Submissions). Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, the Settling Defendants shall within the 30 day period pay all uncontested Future Response Costs to the United States in the manner described in Paragraph 55. Simultaneously, the Settling Defendants shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of Maryland

1 and remit to that escrow account funds equivalent to the amount of the contested Future Response
2 Costs. The Settling Defendants shall send to the United States, as provided in Section XXVI (Notices
3 and Submissions), a copy of the transmittal letter and check paying the uncontested Future Response
4 Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but
5 not limited to, information containing the identity of the bank and bank account under which the
6 escrow account is established as well as a bank statement showing the initial balance of the escrow
7 account. Simultaneously with establishment of the escrow account, the Settling Defendants shall
8 initiate the Dispute Resolution procedures in Section XIX (Dispute Resolution). If the United States
9 prevails in the dispute, within 5 days of the resolution of the dispute, the Settling Defendants shall
10 pay the sums due (with accrued interest) to the United States in the manner described in Paragraph 55.
11 If the Settling Defendants prevail concerning any aspect of the contested costs, the Settling
12 Defendants shall pay that portion of the costs (plus associated accrued interest) for which they did not
13 prevail to the United States in the manner described in Paragraph 55; Settling Defendants shall be
14 disbursed any balance of the escrow account. The dispute resolution procedures set forth in this
15 Paragraph in conjunction with the procedures set forth in Section XIX (Dispute Resolution) shall be
16 the exclusive mechanisms for resolving disputes regarding the Settling Defendants' obligation to
17 reimburse the United States for its Future Response Costs.

18 57. In the event that the payments required by Paragraph 55 are not made within thirty (30) days
19 of the Settling Defendants' receipt of the bill, Settling Defendants shall pay Interest on the unpaid
20 balance. The Interest on Future Response Costs shall begin to accrue on the date of the bill. The
21 Interest shall accrue through the date of the Settling Defendants' payment. Payments of Interest made

under this Paragraph shall be in addition to such other remedies or sanctions available to Plaintiff by virtue of Settling Defendants' failure to make timely payments under this Section including, but not limited to, payment of stipulated penalties pursuant to Paragraphs 72 and 73. The Settling Defendants shall make all payments required by this Paragraph in the manner described in Paragraph 55.

XVII. INDEMNIFICATION AND INSURANCE

58. a. The United States does not assume any liability by entering into this agreement or by virtue of any designation of Settling Defendants as EPA's authorized representatives under Section 104(e) of CERCLA. Settling Defendants shall indemnify, save, and hold harmless the United States and its officials, agents, employees, contractors, subcontractors, or representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Settling Defendants, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree, including, but not limited to, any claims arising from any designation of Settling Defendants as EPA's authorized representatives under Section 104(e) of CERCLA. Further, the Settling Defendants agree to pay the United States all costs it incurs including, but not limited to, attorneys fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States based on negligent or other wrongful acts or omissions of Settling Defendants, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree. The United States shall not be held out as a party to any contract entered into by or on behalf

1 of Settling Defendants in carrying out activities pursuant to this Consent Decree. Neither the Settling
2 Defendants nor any such contractor shall be considered an agent of the United States.

3 b. The United States shall give Settling Defendants notice of any claim for which the
4 United States plans to seek indemnification pursuant to Paragraph 58.a., and shall consult with
5 Settling Defendants prior to settling such claim.

6 59. Settling Defendants waive all claims against the United States for damages or reimbursement
7 or for set-off of any payments made or to be made to the United States, arising from or on account
8 of any contract, agreement, or arrangement between any one or more of Settling Defendants and any
9 person for performance of Work on or relating to the Site, including, but not limited to, claims on
10 account of construction delays. In addition, Settling Defendants shall indemnify and hold harmless
11 the United States with respect to any and all claims for damages or reimbursement arising from or on
12 account of any contract, agreement, or arrangement between any one or more of Settling Defendants
13 and any person for performance of Work on or relating to the Site, including, but not limited to,
14 claims on account of construction delays.

15 60. No later than fifteen (15) days before commencing any on-site Work, Settling Defendants
16 shall secure, and shall maintain until the first anniversary of EPA's Certification of Completion of the
17 Remedial Action pursuant to Paragraph 50.b. of Section XIV (Certification of Completion)
18 comprehensive general liability insurance with limits of five million dollars, combined single limit,
19 and automobile liability insurance with limits of \$500,000, combined single limit, naming the United
20 States as an additional insured. In addition, for the duration of this Consent Decree, Settling
21 Defendants shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable

1 laws and regulations regarding the provision of worker's compensation insurance for all persons
2 performing the Work on behalf of Settling Defendants in furtherance of this Consent Decree. Prior
3 to commencement of the Work under this Consent Decree, Settling Defendants shall provide to EPA
4 certificates of such insurance and a copy of each insurance policy. Settling Defendants shall resubmit
5 such certificates and copies of policies each year on the anniversary of the Effective Date of this
6 Consent Decree. If Settling Defendants demonstrate by evidence satisfactory to EPA that any
7 contractor or subcontractor maintains insurance equivalent to that described above, or insurance
8 covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor,
9 Settling Defendants need provide only that portion of the insurance described above which is not
10 maintained by the contractor or subcontractor. Settling Defendants may satisfy the provisions of this
11 Paragraph 60 if they submit to EPA for approval one of the financial assurance mechanisms of
12 Section XIII (Assurance of Ability to Complete Work) in at least the amounts stated in this Paragraph
13 60 demonstrating that Settling Defendants are able to pay any claims arising out of Settling
14 Defendants' performance of their obligations under this Consent Decree. Such financial assurance
15 mechanism shall meet all of the requirements of Section XIII (Assurance of Ability to Complete
16 Work). If Settling Defendants seek to utilize the mechanisms set forth in Section XIII (Assurance of
17 Ability to Complete Work) to satisfy the provisions of this Paragraph 60, they must demonstrate an
18 ability to pay the amounts required under this Paragraph, above and beyond that required by the
19 obligations of Section XIII (Assurance of Ability to Complete Work).

20
XVIII. FORCE MAJEURE

1 61. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from
2 causes beyond the control of the Settling Defendants, of any entity controlled by Settling Defendants,
3 or of Settling Defendants' contractors, that delays or prevents the performance of any obligation under
4 this Consent Decree despite Settling Defendants' best efforts to fulfill the obligation. The requirement
5 that the Settling Defendants exercise "best efforts to fulfill the obligation" includes using best efforts
6 to anticipate any potential force majeure event and best efforts to address the effects of any potential
7 force majeure event (a) as it is occurring, and (b) following the potential force majeure event, such
8 that the delay is minimized to the greatest extent possible. "Force Majeure" does not include financial
9 inability to complete the Work, a failure to attain the Performance Standards, or increased costs.

10 62. If any event occurs or has occurred that may delay the performance of any obligation under
11 this Consent Decree, whether or not caused by a force majeure event, the Settling Defendants shall
12 notify orally EPA's Project Coordinator or, in his or her absence, EPA's Alternate Project Coordinator
13 or, in the event both of EPA's designated representatives are unavailable, the Director of the EPA
14 Region III Hazardous Site Cleanup Division, within forty-eight (48) hours of when Settling
15 Defendants first knew that the event might cause a delay. Within five (5) days thereafter, Settling
16 Defendants shall provide in writing to EPA and the State an explanation and description of the
17 reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent
18 or minimize the delay; a schedule for implementation of any measures to be taken to prevent or
19 mitigate the delay or the effect of the delay; the Settling Defendants' rationale for attributing such
20 delay to a force majeure event if they intend to assert such a claim; and a statement as to whether, in
21 the opinion of the Settling Defendants, such event may cause or contribute to an endangerment to

public health, welfare or the environment. The Settling Defendants shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Settling Defendants from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Settling Defendants shall be deemed to know of any circumstance of which Settling Defendants, any entity controlled by Settling Defendants, or Settling Defendants' contractors knew or should have known.

63. If EPA agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA for such time as is necessary to complete those obligations on an expedited basis. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify the Settling Defendants in writing of its decision. If EPA agrees that the delay is attributable to a force majeure event, EPA will notify the Settling Defendants in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

64. If the Settling Defendants elect to invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution), they shall do so no later than fifteen (15) days after receipt of EPA's notice. In any such proceeding, Settling Defendants shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted

under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Settling Defendants complied with the requirements of Paragraphs 61 and 62, above. If Settling Defendants carry this burden, the delay at issue shall be deemed not to be a violation by Settling Defendants of the affected obligation of this Consent Decree identified to EPA and the Court.

XIX. DISPUTE RESOLUTION

65. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, the procedures set forth in this Section shall not apply to actions by the United States to enforce obligations of the Settling Defendants that have not been disputed in accordance with this Section.

66. Any dispute which arises under or with respect to this Consent Decree shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed twenty (20) days from the time the dispute arises, unless it is modified by written agreement of the parties to the dispute. The dispute shall be considered to have arisen when one party sends the other parties a written Notice of Dispute.

67. a. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by EPA shall be considered binding unless, within ten (10) days after the conclusion of the informal negotiation period, Settling Defendants invoke the formal dispute resolution procedures of this Section by serving on the United States a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis

1 or opinion supporting that position and any supporting documentation relied upon by the Settling
2 Defendants. The Statement of Position shall specify the Settling Defendants' position as to whether
3 formal dispute resolution should proceed under Paragraph 68 or Paragraph 69.

4 b. Within fourteen (14) days after receipt of Settling Defendants' Statement of Position,
5 EPA will serve on Settling Defendants its Statement of Position, including, but not limited to, any
6 factual data, analysis, or opinion supporting that position and all supporting documentation relied
7 upon by EPA. EPA's Statement of Position shall include a statement as to whether formal dispute
8 resolution should proceed under Paragraph 68 or 69. Within seven (7) days after receipt of EPA's
9 Statement of Position, Settling Defendants may submit a Reply.

10 c. If there is disagreement between EPA and the Settling Defendants as to whether
11 dispute resolution should proceed under Paragraph 68 or 69, the parties to the dispute shall follow the
12 procedures set forth in the Paragraph determined by EPA to be applicable. However, if the Settling
13 Defendants ultimately appeal to the Court to resolve the dispute, the Court shall determine which
14 Paragraph is applicable in accordance with the standards of applicability set forth in Paragraphs 68
15 and 69.

16 68. Formal dispute resolution for disputes pertaining to the selection or adequacy of any response
17 action and all other disputes that are accorded review on the administrative record under applicable
18 principles of administrative law shall be conducted pursuant to the procedures set forth in this
19 Paragraph. For purposes of this Paragraph, the adequacy of any response action includes, without
20 limitation: (1) the adequacy or appropriateness of plans, procedures to implement plans, or any other
21 items requiring approval by EPA under this Consent Decree; and (2) the adequacy of the performance

1 of response actions taken pursuant to this Consent Decree. Nothing in this Consent Decree shall be
2 construed to allow any dispute by Settling Defendants regarding the validity of the ROD's provisions.

3 a. An administrative record of the dispute shall be maintained by EPA and shall contain
4 all statements of position, including supporting documentation, submitted pursuant to this Section.
5 Where appropriate, EPA may allow submission of supplemental statements of position by the parties
6 to the dispute.

7 b. The Director of the Hazardous Site Cleanup Division, EPA Region III, will issue a
8 final administrative decision resolving the dispute based on the administrative record described in
9 Paragraph 68.a. This decision shall be binding upon the Settling Defendants, subject only to the right
10 to seek judicial review pursuant to Paragraph 68.c. and d.

11 c. Any administrative decision made by EPA pursuant to Paragraph 68.b. shall be
12 reviewable by this Court, provided that a motion for judicial review of the decision is filed by the
13 Settling Defendants with the Court and served on all Parties within ten (10) days of receipt of EPA's
14 decision. The motion shall include a description of the matter in dispute, the efforts made by the
15 parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be
16 resolved to ensure orderly implementation of this Consent Decree. The United States may file a
17 response to Settling Defendants' motion.

18 d. In proceedings on any dispute governed by this Paragraph, Settling Defendants shall
19 have the burden of demonstrating that the decision of the Director of the Hazardous Site Cleanup
20 Division, EPA Region III, is arbitrary and capricious or otherwise not in accordance with law.

Judicial review of EPA's decision shall be on the administrative record compiled pursuant to Paragraph 68.a.

69. Formal dispute resolution for disputes that neither pertain to the selection or adequacy of any response action nor are otherwise accorded review on the administrative record under applicable principles of administrative law, shall be governed by this Paragraph.

a. Following receipt of Settling Defendants' Statement of Position submitted pursuant to Paragraph 67, the Director of the Hazardous Site Cleanup Division, EPA Region III, will issue a final decision resolving the dispute. The Director's decision shall be binding on the Settling Defendants unless, within ten (10) days of receipt of the decision, the Settling Defendants file with the Court and serve on the parties a motion for judicial review of the decision setting forth the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Consent Decree. The United States may file a response to Settling Defendants' motion.

b. Notwithstanding Paragraph M of Section I (Background) of this Consent Decree, judicial review of any dispute governed by this Paragraph shall be governed by applicable principles of law.

70. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone, or affect in any way any obligation of the Settling Defendants under this Consent Decree, not directly in dispute, unless EPA or the Court agrees otherwise. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the dispute as provided in Paragraph 79. Notwithstanding the stay of payment, stipulated penalties shall

1 accrue from the first day of noncompliance with any applicable provision of this Consent Decree.

2 In the event that the Settling Defendants do not prevail on the disputed issue, stipulated penalties shall
3 be assessed and paid as provided in Section XX (Stipulated Penalties).

4
5 **XX. STIPULATED PENALTIES**

6 71. Settling Defendants shall be liable for stipulated penalties in the amounts set forth in
7 Paragraphs 72 and 73 to the United States for failure to comply with the requirements of this Consent
8 Decree specified below, unless excused under Section XVIII (Force Majeure). "Compliance" by
9 Settling Defendants shall include completion of the activities under this Consent Decree or any work
10 plan or other plan approved under this Consent Decree identified below in accordance with all
11 applicable requirements of law, this Consent Decree, and any plans or other documents approved by
12 EPA pursuant to this Consent Decree and within the specified time schedules established by and
13 approved under this Consent Decree. Except for activities required for the continued operation of the
14 existing groundwater recovery and treatment system, Settling Defendants shall not be liable for
15 stipulated penalties under this Section XX for any activity required under the 1988 Consent Decree
16 for OU1 or the 1992 Amendment for this Site. In no event shall Settling Defendants be liable for, or
17 required to pay, stipulated penalties for failure to comply with a requirement of this Consent Decree
18 if stipulated penalties have been required or paid for the same requirement under the 1988 Consent
19 Decree for OU1 or the 1992 Amendment.

20 72. a. The following stipulated penalties shall accrue per violation per day for any
21 noncompliance identified in Subparagraph b:

<i>Penalty Per Violation Per Day</i>	<i>Period of Noncompliance</i>
\$ 2,500.00	1 st through 14 th day
\$ 5,000.00	15 th through 30 th day
\$ 7,500.00	31 st day and beyond

b. Failure to comply with requirements of Section VI (Performance of the Work by Settling Defendants), Section VII (Remedy Review), Section VIII (Quality Assurance, Sampling, and Data Analysis), Section XI (EPA Approval of Plans and Other Submissions), Section XV (Emergency Response), and Section XVI (Payments for Response Costs).

73. a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Subparagraph b:

<i>Penalty Per Violation Per Day</i>	<i>Period of Noncompliance</i>
\$ 500.00	1 st through 14 th day
\$ 1,000.00	15 th through 30 th day
\$ 1,500.00	31 st day and beyond

b. All requirements of this Consent Decree that are not identified in Paragraph 72(b) of this Consent Decree.

74. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 87 of Section XXI (Covenants Not to Sue by Plaintiff), Settling Defendants shall be liable for a stipulated penalty in the amount of \$600,000.00 (Six Hundred Thousand Dollars).

75. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with

1 respect to a deficient submission under Section XI (EPA Approval of Plans and Other Submissions),
2 during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the
3 date that EPA notifies Settling Defendants of any deficiency; (2) with respect to a decision by the
4 Director of the Hazardous Site Cleanup Division, EPA Region III, under Paragraph 68.b. or 69.a. of
5 Section XIX (Dispute Resolution), during the period, if any, beginning on the 21st day after the date
6 that Settling Defendants' reply to EPA's Statement of Position is received until the date that the
7 Director of the Hazardous Site Cleanup Division, EPA Region III, issues a final decision regarding
8 such dispute; or (3) with respect to judicial review by this Court of any dispute under Section XIX
9 (Dispute Resolution), during the period, if any, beginning on the 31st day after the Court's receipt of
10 the final submission regarding the dispute until the date that the Court issues a final decision
11 regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties
12 for separate violations of this Consent Decree.

13 76. Following EPA's determination that Settling Defendants have failed to comply with a
14 requirement of this Consent Decree, EPA may give Settling Defendants written notification of the
15 same and describe the noncompliance. EPA may send the Settling Defendants a written demand for
16 the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph
17 regardless of whether EPA has notified the Settling Defendants of a violation.

18 77. All penalties accruing under this Section shall be due and payable to the United States within
19 thirty (30) days of the Settling Defendants' receipt from EPA of a demand for payment of the
20 penalties, unless Settling Defendants invoke the Dispute Resolution procedures under Section XIX
21 (Dispute Resolution). All payments to the United States under this Section shall be paid by certified

or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to the United States Environmental Protection Agency, Region III, Attention: Superfund Accounting, P.O. Box 360515, Pittsburgh, PA 15251-6515, shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID #0342, the DOJ Case Number 90-11-2-225A, and the name and address of the party making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to the United States as provided in Section XXVI (Notices and Submissions), and to the Docket Clerk (3RC00), United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

78. The payment of penalties shall not alter in any way Settling Defendants' obligation to complete the performance of the Work required under this Consent Decree.

79. Penalties shall continue to accrue as provided in Paragraph 75 during any dispute resolution period, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to this Court, accrued penalties determined to be owing shall be paid to EPA within fifteen (15) days of the agreement or the receipt of EPA's decision or order;

b. If the dispute is appealed to this Court and the United States prevails in whole or in part, Settling Defendants shall pay all accrued penalties determined by the Court to be owed to EPA within sixty (60) days of receipt of the Court's decision or order, except as provided in Subparagraph c below;

c. If the District Court's decision is appealed by any Party, Settling Defendants shall pay all accrued penalties determined by the District Court to be owing to the United States into an

interest-bearing escrow account within sixty (60) days of receipt of the Court's decision or order. Penalties shall be paid into this account as they continue to accrue, at least every sixty (60) days. Within fifteen (15) days of receipt of the final appellate court decision, the escrow agent shall pay the balance of the account to EPA or to Settling Defendants to the extent that they prevail.

80. a. If Settling Defendants fail to pay stipulated penalties when due, the United States may institute proceedings to collect the penalties, as well as interest. Settling Defendants shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 77.

b. Nothing in this Consent Decree shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek any other remedies or sanctions available by virtue of Settling Defendants' violation of this Decree or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA. Provided, however, that for any particular violation of this Consent Decree, the United States shall be limited to either demanding stipulated penalties pursuant to this Section XX of the Consent Decree or pursuing civil penalties pursuant to Section 122(l) of CERCLA, except in the case of a willful violation of the Consent Decree.

81. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Consent Decree.

XXI. COVENANTS NOT TO SUE BY PLAINTIFF

82. In consideration of the actions that will be performed and the payments that will be made by the Settling Defendants under the terms of the Consent Decree, and except as specifically provided in Paragraphs 83, 84, and 86 of this Section, the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Sections 106 and 107(a) of CERCLA relating to the Site. Except with respect to future liability, these covenants not to sue shall take effect upon entry of this Consent Decree. With respect to future liability, these covenants not to sue shall take effect upon Certification of Completion of Remedial Action by EPA pursuant to Paragraph 50.b of Section XIV (Certification of Completion). These covenants not to sue are conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Decree. These covenants not to sue extend only to the Settling Defendants and do not extend to any other person.

83. United States' Pre-Certification Reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Settling Defendants (1) to perform further response actions relating to the Site or (2) to reimburse the United States for additional costs of response if, prior to Certification of Completion of the Remedial Action:

- (i) conditions at the Site, previously unknown to EPA, are discovered, or
 - (ii) information, previously unknown to EPA, is received, in whole or in part,
- and EPA determines that these previously unknown conditions or information together with any other

relevant information indicates that the Remedial Action is not protective of human health or the environment.

84. United States' Post-Certification Reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Settling Defendants (1) to perform further response actions relating to the Site or (2) to reimburse the United States for additional costs of response if, subsequent to Certification of Completion of the Remedial Action:

- (i) conditions at the Site, previously unknown to EPA, are discovered, or
 - (ii) information, previously unknown to EPA, is received,
- in whole or in part,

and EPA determines that these previously unknown conditions or this information together with other relevant information indicate that the Remedial Action is not protective of human health or the environment.

85. For purposes of Paragraph 83, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date the ROD was signed and set forth in the Record of Decision for the Site and the administrative record supporting the Record of Decision. For purposes of Paragraph 84, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date of Certification of Completion of the Remedial Action and set forth in the Record of Decision, the administrative record supporting the Record of Decision, the post-ROD administrative record, or in any information

received by EPA pursuant to the requirements of this Consent Decree prior to Certification of Completion of the Remedial Action.

86. General reservations of rights. The covenants not to sue set forth above do not pertain to any matters other than those expressly specified in Paragraph 82. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within Plaintiffs' covenant not to sue. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendants with respect to:

(1) claims based on a failure by Settling Defendants to meet a requirement of this Consent Decree;

(2) liability arising from the past, present, or future disposal, release, or threat of release of Waste Material outside of the Site, including but not limited to liability for past, present, or future disposal, release, or threat of release of Waste Material at the Spectron, Inc. Site in Elkton, Maryland;

(3) liability based upon the Settling Defendants' ownership or operation of the Site, or upon the Settling Defendants' transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal of Waste Material at or in connection with the Site, other than as provided in the ROD, the Work, or otherwise ordered by EPA, after signature of this Consent Decree by the Settling Defendants;

(4) liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

(5) criminal liability;

(6) liability for violations of federal or state law which occur during or after implementation of the Remedial Action; and

(7) liability, prior to Certification of Completion of the Remedial Action, for additional response actions that EPA determines are necessary to achieve the Performance Standards, but that cannot be required pursuant to Paragraph 14 (Modification of the Work);

(8) liability for additional response actions, in excess of \$7 million dollars, that EPA determines are appropriate to address 1,4-dioxane contamination;

(9) liability for Operable Units One and Two at the Site, including any and all obligations related to the existing Consent Decree in this matter entered April 21, 1988 and Amendment to Consent Decree entered January 28, 1992;

(10) RESERVED

(11) liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

87. Work Takeover. In the event EPA determines that Settling Defendants have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portions of the Work as EPA determines necessary. Settling Defendants may invoke the procedures set forth in Section XIX (Dispute Resolution), Paragraph 68, to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the United States in

performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Settling Defendants shall pay pursuant to Section XVI (Payment for Response Costs).

88. Notwithstanding any other provision of this Consent Decree, the United States retains all authority and reserves all rights to take any and all response actions authorized by law.

XXII. COVENANTS BY SETTLING DEFENDANTS

89. Covenant Not to Sue. Subject to the reservations in Paragraph 90, Settling Defendants hereby covenant not to sue and agree not to assert any claims or causes of action against the United States with respect to the Site or this Consent Decree, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA §§ 106(b)(2), 107, 111, 112, 113, or any other provision of law;

b. any claims against the United States, including any department, agency or instrumentality of the United States under CERCLA Sections 107 or 113 related to the Site, or

c. any claims arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Maryland Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 29 U.S.C. § 2412, as amended, or at common law.

d. any direct or indirect claim for disbursement from the Maryland Sand, Gravel and Stone Superfund Site Special Account or the Maryland Sand, Gravel and Stone Superfund Site Disbursement Special Account (established pursuant to this Consent Decree), except as provided in Section XXXVI (Disbursement of Special Account Funds). Except as provided in Paragraph 97 (waiver of Claim-Splitting Defenses), these covenants not to sue shall not apply in the event that the

United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 83, 84, 86(2) - (4) or 86(7), (9) and (11), but only to the extent that Settling Defendants' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

90. The Settling Defendants reserve, and this Consent Decree is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, any such claim shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a federal employee as that term is defined in 28 U.S.C. § 2671; nor shall any such claim include a claim based on EPA's selection of response actions, or the oversight or approval of the Settling Defendants' plans or activities. The foregoing applies only to claims which are brought pursuant to any statute other than CERCLA and for which the waiver of sovereign immunity is found in a statute other than CERCLA.

91. Nothing in this Consent Decree shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

92. RESERVED

XXIII. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

93. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this decree may have under applicable law. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

94. The Parties agree, and by entering this Consent Decree this Court finds, that the Settling Defendants are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), for matters addressed in this Consent Decree. The "matters addressed" in this settlement are all response actions taken or to be taken and all response costs incurred or to be incurred by the United States or any other person with respect to the Site. The "matters addressed" in this settlement do not include those response costs or response actions as to which the United States has reserved its rights under this Consent Decree (except for claims for failure to comply with this Decree), in the event that the United States asserts rights against Settling Defendants coming within the scope of such reservations. Nothing contained in this Paragraph is intended or shall be construed to limit, waive or otherwise affect rights between and among the Settling Defendants, all such rights being expressly reserved.

95. The Settling Defendants agree that with respect to any suit or claim for contribution brought by them for matters related to this Consent Decree they will notify the United States in writing no

1 later than sixty (60) days prior to the initiation of such suit or claim.

2 96. The Settling Defendants also agree that with respect to any suit or claim for contribution
3 brought against them for matters related to this Consent Decree they will notify in writing the United
4 States within ten (10) days of service of the complaint on them. In addition, Settling Defendants shall
5 notify the United States within ten (10) days of service or receipt of any Motion for Summary
6 Judgment and within ten (10) days of receipt of any order from a court setting a case for trial.

7 97. In any subsequent administrative or judicial proceeding initiated by the United States for
8 injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Settling
9 Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of
10 waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon
11 any contention that the claims raised by the United States in the subsequent
12 proceeding were or should have been brought in the instant case; provided, however, that nothing in
13 this Paragraph affects the enforceability of the covenants not to sue set forth in Section XXI
14 (Covenants Not to Sue by Plaintiff).

15 **XXIV. ACCESS TO INFORMATION**

16 98. Settling Defendants shall provide to EPA, upon request, copies of all documents and
17 information within their possession or control or that of their contractors or agents relating to
18 activities at the Site or to the implementation of this Consent Decree, including, but not limited to,
19 sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic
20 routing, correspondence, or other documents or information related to the Work. Settling Defendants

shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

99. a. Settling Defendants may assert business confidentiality claims covering part or all of the documents or information submitted to Plaintiff under this Consent Decree to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), or 40 C.F.R. Part 2, Subpart B. Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA and the State, or if EPA has notified Settling Defendants that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA, the public may be given access to such documents or information without further notice to Settling Defendants.

b. The Settling Defendants may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Defendants assert such a privilege in lieu of providing documents, they shall provide the Plaintiff with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the contents of the document, record, or information; and (6) the privilege asserted by Settling Defendants. However, no documents, reports or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are

1 privileged.

2 100. No claim of confidentiality shall be made with respect to any data, including, but not
3 limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering
4 data, or any other documents or information evidencing conditions at or around the Site.

5 **XXV. RETENTION OF RECORDS**

6 101. Until six (6) years after the Settling Defendants' receipt of EPA's notification pursuant to
7 Paragraph 51.b of Section XIV (Certification of Completion of the Work), each Settling Defendant
8 shall preserve and retain all non-identical copies of records and documents (including records or
9 documents in electronic form) now in its possession or control or which come into its possession or
10 control that relate in any manner to its liability under CERCLA with respect to the Site, provided,
11 however, that Settling Defendants who are potentially liable as owners or operators of the Site must
12 retain, in addition, all documents and records that relate to the liability of any other person under
13 CERCLA with respect to the Site. Each Settling Defendant must also retain, and instruct its
14 contractors and agents to preserve, for the same period of time specified above, all non-identical
15 copies of the last draft or final version of any documents or records (including documents or records
16 in electronic form) now in its possession or control or which come into its possession or control that
17 relate in any manner to the performance of the Work, provided, however, that each Settling Defendant
18 (and its contractors and agents) must retain, in addition, copies of all data generated during the
19 performance of the Work and not contained in the aforementioned documents required to be retained.
20 Each of the above record retention requirements shall apply regardless of any corporate retention

policy to the contrary.

102. At the conclusion of this document retention period, Settling Defendants shall notify the United States at least ninety (90) days prior to the destruction of any such records or documents, and, upon request by the United States, Settling Defendants shall deliver any such records or documents to EPA. If the United States has not responded to Settling Defendants' notice prior to the time Settling Defendants intend to destroy the records or documents, Settling Defendants shall deliver all such records and documents to EPA no earlier than ten (10) days after providing an additional written notice that such records and documents will be delivered, unless EPA provides otherwise after receiving such notice. The Settling Defendants may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Defendants assert such a privilege, they shall provide the Plaintiffs with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Settling Defendants. However, no documents, reports, or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

103. Each Settling Defendant hereby certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any records, documents, or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by the United States or the State or

the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XXVI. NOTICES AND SUBMISSIONS

104. Whenever, under the terms of this Consent Decree, written notice is required to be given or a report or other document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, the State, and the Settling Defendants, respectively.

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DOJ # 90-11-2-225A

As to EPA:

Benjamin Cohan
Senior Assistant Regional Counsel (3RC41)
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

1 Debra Rossi (3HS23)
2 EPA Project Coordinator
3 United States Environmental Protection Agency
4 Region III
5 1650 Arch Street
6 Philadelphia, PA 19103

7 As to the State:

8 Mr. Kim LeMaster
9 Division Chief -Federal Superfund Division / ERRP
10 Maryland Department of the Environment
11 Waste Management Administration
12 1800 Washington Boulevard - Suite 625
13 Baltimore, MD 21230

14
15 As to the Settling Defendants:

16 Michael Dore, Esq.
17 Lowenstein Sandler PC
18 65 Livingston Ave.
19 Roseland, NJ 07068

20 Douglas Ammon, PE
21 Clean Sites Environmental Services, Inc.
22 228 S. Washington Street, Suite 115
23 Alexandria, VA 22314
24 (703) 519-2135 (phone)
25 (703) 519-2141 (telefax)

26 **XXVII. EFFECTIVE DATE**

27 105. The effective date of this Consent Decree shall be the date upon which this Consent Decree
28 is entered by the Court, except as otherwise provided herein.

XXVIII. RETENTION OF JURISDICTION

106. This Court retains jurisdiction over both the subject matter of this Consent Decree and the Settling Defendants for the duration of the performance of the terms and provisions of this Consent Decree for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Section XIX (Dispute Resolution) hereof.

XXIX. APPENDICES

107. The following appendices are attached to and incorporated into this Consent Decree:

“Appendix A is the summary of costs referred to in the definition of “Past Response Costs.”

“Appendix B” is the ROD.

“Appendix C” is the List of Settling Defendants

“Appendix D” is the Draft Easement

XXX. COMMUNITY RELATIONS

108. Settling Defendants shall propose to EPA their participation in the community relations plan to be developed by EPA. EPA, in consultation with Settling Defendants, will determine the appropriate role for the Settling Defendants under the Plan. Settling Defendants shall also cooperate with EPA in providing information regarding the Work to the public. As requested by EPA, Settling

Defendants shall participate in the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by EPA to explain activities at or relating to the Site.

XXXI. MODIFICATION

109. Schedules specified in this Consent Decree for completion of the Work may be modified by agreement of the EPA Project Coordinator and the Settling Defendants. All such modifications shall be made in writing.

110. Except as otherwise provided in this Paragraph, no modifications shall be made to provisions of this Consent Decree without written notification to and written approval of the United States, Settling Defendants, and the Court. Prior to providing its approval to any modification to the provisions of this Consent Decree, the United States will provide the State with a reasonable opportunity to review and comment on the proposed modification. Modifications to the Remedial Design Work Plan, Remedial Action Work Plan, and any other plan approved by EPA under this Consent Decree that do not materially alter the requirements of those documents may be made by written agreement between the EPA Project Coordinator, after providing the State with a reasonable opportunity to review and comment on the proposed modification, and the Settling Defendants. Modifications to the Work made pursuant to Paragraph 14 ("Modification of the Work") may be made by EPA. Nothing in this Decree shall be deemed to alter the Court's power to enforce, supervise, or approve modifications to this Consent Decree.

XXXII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

111. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with Section 122(d)(2) of CERCLA, 42 U.S.C. § 9622(d)(2), and 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

112. If for any reason the Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XXXIII. SIGNATORIES/SERVICE

113. Each undersigned representative of a Settling Defendant to this Consent Decree and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document.

114. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree unless the United States has notified the Settling Defendants in writing that it no longer supports entry of the Consent Decree.

115. Each Settling Defendant shall identify, on the attached signature page, the name, address,

1 and telephone number of an agent who is authorized to accept service of process by mail on behalf
2 of that Party with respect to all matters arising under or relating to this Consent Decree. Settling
3 Defendants hereby agree to accept service in that manner and to waive the formal service
4 requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules
5 of this Court, including, but not limited to, service of a summons. The parties agree that Settling
6 Defendants need not file an answer to the complaint in this action unless or until the court expressly
7 declines to enter this Consent Decree.

8 **XXXIV. RELATIONSHIP BETWEEN CONSENT ORDER AND CONSENT DECREE**

9 116. The United States and the Settling Defendants have agreed that certain portions of the Work
10 shall commence in accordance with Administrative Order on Consent, EPA Docket No.CERC-03-
11 2003-0379DC ("Consent Order"), prior to the Effective Date. Upon the Effective Date, and as set
12 forth in Section III of the Consent Order, the Consent Order shall terminate. It is agreed by the
13 Parties, that upon termination of the Consent Order due to entry of this Consent Decree, performance
14 of work commenced under the Consent Order shall continue under this Consent Decree in accordance
15 with the EPA-approved schedules and requirements developed under the Consent Order. To the
16 extent that Settling Defendants have fulfilled obligations under the Consent Order that are also
17 required by this Consent Decree, Settling Defendants shall also be deemed to have fulfilled such
18 obligations under this Consent Decree.
19

XXXV. FINAL JUDGMENT

117. This Consent Decree and its appendices constitute the final, complete, and exclusive agreement and understanding among the parties with respect to the settlement embodied in the Consent Decree. The parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between and among the United States and the Settling Defendants. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

XXXVI. DISBURSEMENT OF SPECIAL ACCOUNT FUNDS

118. Creation of the Maryland Sand, Gravel and Stone Superfund Site Disbursement Special Account and Agreement to Disburse Funds to Settling Defendants. Within thirty (30) days after the Maryland Sand, Gravel and Stone Superfund Site Special Account ("MSGS Special Account") receives monies in compensation for EPA's allowed general unsecured claim pursuant to the draft Settlement Agreement being negotiated In Re: Armstrong World Industries, Inc., Case No. 00-4471)(RJN), Chapter 11, (Bankr. D. Del.) (the "Armstrong Recovery"), but no sooner than thirty (30) days after the Effective Date of this Consent Decree, EPA shall establish a new special account, the Maryland Sand, Gravel and Stone Superfund Site Disbursement Special Account ("MSGS Disbursement Special Account"), within the EPA Hazardous Substance Superfund, and shall transfer 100% of the monies it receives as a result of the Armstrong Recovery from the MSGS Special Account to the MSGS Disbursement Special account. Subject to the terms and conditions set forth

1 in this Section, EPA agrees to make the funds in the MSGS Disbursement Special Account, including
2 Interest Earned, available for disbursement to Settling Defendants as partial reimbursement for
3 performance of the Work under this Consent Decree. However, these monies made available to the
4 Settling Defendants shall not exceed the total of the monies received as a result of the Armstrong
5 Recovery, plus any Interest Earned. EPA shall disburse funds from the MSGS Disbursement Special
6 Account to Settling Defendants in accordance with the procedure and milestone for disbursement set
7 forth in Paragraph 119 of this Section XXXVI. However, such disbursement shall occur no sooner
8 than 60 days after the money EPA receives from the Armstrong Recovery is placed into the MSGS
9 Disbursement Special Account. EPA agrees to notify Settling Defendants of the amount EPA
10 receives from the Armstrong Recovery and the date on which it is placed into the MSGS
11 Disbursement Special Account. If, for any reason, EPA does not receive any monies from the
12 Armstrong Recovery, then this Section XXXVI shall be rendered null and void, accordingly.

13
14 119. Timing, Amount and Method of Disbursing Funds From the Maryland Sand, Gravel and
15 Stone Superfund Site Disbursement Special Account. Within 60 days of EPA's receipt of a Cost
16 Summary and Certification, as defined by Subparagraph 120.b, or if EPA has requested additional
17 information under Subparagraph 120.b or a revised Cost Summary and Certification under
18 Subparagraph 120.c, within 60 days of receipt of the additional information or revised Cost Summary
19 and Certification, and subject to the conditions set forth in this Section XXXVI, EPA shall disburse
20 the funds from the MSGS Disbursement Special Account at the completion of the following
21 milestone, and in the amounts set forth below:

Milestone	Disbursement of Funds
EPA acceptance of the Resident Engineer for soil remediation activities	100% of any monies received from the Armstrong Recovery which are placed into the MSGS Disbursement Special Account, including Interest Earned

EPA shall disburse the funds from the MSGS Disbursement Special Account to the Settling Defendants in the following manner:

[Insert name and address for payment or instructions for electronic funds transfer.]

120. Requests for Disbursement of Special Account Funds.

a. Within 30 days of completion of the milestone of the Work, as defined in Paragraph 119, Settling Defendants shall submit to EPA a Cost Summary and Certification, as defined in Subparagraph 120.b.

b. The Cost Summary and Certification shall include a complete and accurate written cost summary and certification of the necessary costs incurred and paid by Settling Defendants for the Work performed pursuant to this Consent Decree up to the date of completion of the milestone, excluding costs not eligible for disbursement under Paragraph 121. Each Cost Summary and Certification shall contain the following statement signed by the Chief Financial Officer of a Settling Defendant, Independent Certified Public Accountant or other specified independent person acceptable to EPA:

“To the best of my knowledge, after thorough investigation and review of Settling Defendants’

1 documentation of costs incurred and paid for Work performed pursuant to this Consent Decree
2 up to the date of completion of the milestone defined in Paragraph 119; I certify that the
3 information contained in or accompanying this submittal is true, accurate, and complete. I am
4 aware that there are significant penalties for knowingly submitting false information, including
5 the possibility of fine and imprisonment.”

6 The Chief Financial Officer of a Settling Defendant, Independent Certified Public Accountant, or
7 other specified independent person acceptable to EPA shall also provide to EPA a list of the
8 documents that he or she reviewed in support of the Cost Summary and Certification. Upon request
9 by EPA, Settling Defendants shall submit to EPA any additional information that EPA deems
10 necessary for its review and approval of a Cost Summary and Certification.

11 c. If EPA finds that a Cost Summary and Certification includes a mathematical
12 accounting error, costs excluded under Paragraph 121, or costs that are inadequately documented,
13 EPA will notify Settling Defendants and provide an opportunity to cure the deficiency by submitting
14 a revised Cost Summary and Certification. If Settling Defendants fail to cure the deficiency within
15 30 days after being notified of, and given the opportunity to cure, the deficiency, EPA will recalculate
16 Settling Defendants’ costs eligible for disbursement for that submission and disburse the corrected
17 amount to Settling Defendants in accordance with the procedures in Paragraph 119 of this Section
18 XXXVI. Settling Defendants may dispute EPA’s recalculation under this Paragraph pursuant to
19 Section XIX (Dispute Resolution). In no event shall Settling Defendants be disbursed funds from the
20 MSGS Disbursement Special Account in excess of amounts properly documented in a Cost Summary
21 and Certification accepted or modified by EPA.

22 121. Costs Excluded from Disbursement. The following costs are excluded from, and shall not
23 be sought by Settling Defendants for, disbursement from the MSGS Disbursement Special Account:

(a) response costs paid pursuant to Section XVI; (b) any other payments made by Settling Defendants to the United States pursuant to this Consent Decree, including, but not limited to, any interest or stipulated penalties paid pursuant to Sections XX; (c) attorneys' fees and costs, except for reasonable attorneys' fees and costs necessarily related to Settling Defendants' performance of the Work (e.g. obtaining access or implementing Institutional Controls), as required by Section IX; (d) costs of any response activities Settling Defendants perform that are not required under, or approved by EPA pursuant to, this Consent Decree; (e) costs related to Settling Defendants' litigation, settlement, development of potential contribution claims or identification of defendants; (f) internal costs of Settling Defendants including, but not limited to, salaries, travel, or in-kind services, except for those costs that represent the work of employees of Settling Defendants directly performing the Work; (g) any costs incurred by Settling Defendants prior to the effective date, except for approved Work completed pursuant to this Consent Decree; or (h) any costs incurred by Settling Defendants pursuant to Section XIX (Dispute Resolution).

122. Termination of Disbursements from the Special Account. EPA's obligation to disburse funds from the MSGS Disbursement Special Account under this Consent Decree shall terminate upon EPA's determination that Settling Defendants: (a) have knowingly submitted a materially false or misleading Cost Summary and Certification; (b) have submitted a materially inaccurate or incomplete Cost Summary and Certification, and have failed to correct the materially inaccurate or incomplete Cost Summary and Certification within 30 days after being notified of, and given the opportunity to cure, the deficiency; or (c) failed to submit a Cost Summary and Certification as required by Paragraph 120 within 30 days (or such longer period as EPA agrees) after being notified

that EPA intends to terminate its obligation to make disbursements pursuant to this Section XXXVI because of Settling Defendants' failure to submit the Cost Summary and Certification as required by Paragraph 120. EPA's obligation to disburse funds from the MSGS Disbursement Special Account shall also terminate upon EPA's assumption of performance of any portion of the Work pursuant to Paragraph 87, when such assumption of performance of the Work is not challenged by Settling Defendants or, if challenged, is upheld under Section XIX (Dispute Resolution). Settling Defendants may dispute EPA's termination of Special Account disbursements under Section XIX (Dispute Resolution).

123. Recapture of Special Account Disbursements. Upon termination of disbursements from the MSGS Disbursement Special Account under Paragraph 122, if EPA has previously disbursed funds from the MSGS Disbursement Special Account for activities specifically related to the reason for termination (*e.g.*, discovery of a materially false or misleading submission after disbursement of funds based on that submission), EPA shall submit a bill to Settling Defendants for those amounts already disbursed from the MSGS Disbursement Special Account specifically related to the reason for termination, plus Interest on that amount covering the period from the date of disbursement of the funds by EPA to the date of repayment of the funds by Settling Defendants. Within 30 days of receipt of EPA's bill, Settling Defendants shall reimburse the Hazardous Substance Superfund for the total amount billed by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the party making payment, EPA Site/Spill ID No. 0342, and DOJ Case No. 90-11-2-225A. Settling Defendants shall send the check(s) to the United States Environmental Protection Agency, Region III, Attention: Superfund Accounting, P.O.

Box 360515, Pittsburgh, PA 15251-6515, and shall send copies of the check(s) to the United States as specified in Section XXVI (Notices and Submissions) and to the Docket Clerk (3RC00), United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. Upon receipt of payment, EPA may deposit all or any portion thereof into the MSGS Special Account, the MSGS Disbursement Special Account, or retain it within the Hazardous Substance Superfund. The determination of where to deposit or how to use the funds shall not be subject to challenge by Settling Defendants pursuant to the dispute resolution provisions of this Consent Decree or in any other forum. Settling Defendants may dispute EPA's determination as to recapture of funds pursuant to Section XIX (Dispute Resolution).

124. Balance of Special Account Funds. After EPA issues its written Certification of Completion of the Remedial Action pursuant to this Consent Decree, and after EPA completes all disbursement(s) to Settling Defendants in accordance with this Section XXXVI, if any funds remain in the MSGS Disbursement Special Account, EPA may transfer such funds to the MSGS Special Account or to the Hazardous Substance Superfund. Any transfer of funds to the MSGS Special Account or the Hazardous Substance Superfund shall not be subject to challenge by Settling Defendants pursuant to the dispute resolution provisions of this Consent Decree or in any other forum.

SO ORDERED THIS ____ DAY OF _____, 20__.

United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Air Products and Chemicals, Inc., relating to the Maryland Sand Gravel and Stone Superfund Site.


FOR THE UNITED STATES OF AMERICA

THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

NANCY FLICKINGER, Senior Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
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LAWRENCE ADAMS
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District of Maryland
36 S. Charles Street
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1
2
3 DONALD S. WELSH
4 Regional Administrator, Region III
5 U.S. Environmental Protection Agency
6 1650 Arch Street
7 Philadelphia, PA 19103

9
10  WILLIAM C. EARLY
11 Regional Counsel
12 U.S. Environmental Protection Agency, Region III
13 1650 Arch Street
14 Philadelphia, PA 19103

15
16 BENJAMIN M. COHAN
17 Assistant Regional Counsel
18 U.S. Environmental Protection Agency, Region III
19 1650 Arch Street
20 Philadelphia, PA 19103
21

FOR PHARMACIA CORPORATION f/k/a MONSANTO COMPANY:

[Signature]

Please Type the Following:

Name: Jeffrey R. Klieve

Title: Director, Environmental Affairs
Monsanto Company

Address: 800 N. Lindbergh Blvd., Mail Stop B3SA, St. Louis, MO 63167

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Monsanto Company, attorney-in-fact
for Pharmacia Corporation

Title: Attn: Molly Shaffer
Assistant General Counsel

Address: 800 North Lindbergh Blvd.
St. Louis, MO 63167

Telephone: _____

FOR AGERE SYSTEMS, INC.:

Signature

Please Type the Following:

Name: Jocelyn T. de Grandpre

Title: Corporate Counsel

Address: 1110 American Parkway NE, Allentown, PA 18109

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Jocelyn T. de Grandpre

Title: Corporate Counsel

Address: 1110 American Parkway NE, Allentown, PA 18109

Telephone: _____

Inc. / LWM
8/19/04

FOR BAYER CROP SCIENCE INC. (as successor to STAUFFER CHEMICAL COMPANY):

(

[Signature]

Please Type the Following:

Name: Luke W. Mette
Title: Vice President and General Counsel
Stauffer Management Company LLC (as litigation agent for
Bayer Crop Science Inc., the successor in interest to
Address: Stauffer Chemical Company)
1800 Concord Pike, FOP3
Wilmington DE 19850

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Luke W. Mette
Title: Vice President and General Counsel
Stauffer Management Company LLC (as litigation agent for
Bayer Crop Science Inc., the successor in interest to
Address: Stauffer Chemical Company)
1800 Concord Pike, FOP3
Telephone: Wilmington DE 19850

[Signature]

Address: One Financial Plaza
Hartford, CT 06101

Telephone: _____

FOR BEAZER EAST, INC.:

[Signature]

Please Type the Following:

Name: Jill M. Blundon

Title: Vice President & General Counsel

Address: One Oxford Center, Suite 300
Pittsburgh, PA 15219

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Jill M. Blundon

Title: Vice President & General Counsel

Address: One Oxford Center, Suite 300, Pittsburgh, PA 15219

Telephone: _____

FOR BRENNTAG NORTHEAST (as successor to R.W. EAKEN, INC.):

[Signature]

Please Type the Following:

Name: CHESTER J. MURPHY JR.

Title: EXEC. VICE PRESIDENT

Address: PO Box 13788, READING PA 19612

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: DENNIS ST GEORGE

Title: VICE PRES & SECRETARY

Address: BATILLANT NATIONAL SERVICES INC., 120 WHITE PLAINS RD
TARRYTOWN, NY 10591

Telephone:

FOR BRIDGESTONE/FIRESTONE NORTH AMERICA TIRE, LLC (as successor to THE FIRESTONE TIRE AND RUBBER COMPANY):

[Signature]

Please Type the Following:

Name: Jane M. Johnson

Title: Manager of Remediation

Address: 535 Marriott Drive, Nashville TN 37214

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: National Registered Agents, Inc.

Title: Agent

Address: 1900 Church St., Suite 400

Telephone: Nashville, Tenn. 37203

FOR CIBA-SPECIALTY CHEMICALS CORPORATION (for itself AND NOVARTIS CORPORATION):

(Signature)

8/27/07

Please Type the Following:

Name: Douglas J. Hefferin
Title: Vice President, EH&S
Address: Ciba Specialty Chemicals Corporation
540 White Plains Road
Tarrytown, New York 10591

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Mr. James Maewsky
Title: Manager, Administration, Legal, Patent, Tax and Remediation Services
Address: Ciba Specialty Chemicals Corporation
540 White Plains Road
Tarrytown, New York 10591

Telephone:

FOR

DRI-PRINT FOILS, INC.

[Signature]

Please Type the Following:

Name: Joseph DePaolo

Title: GENERAL MANAGER APE-FOILS INC

Address: _____

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Thomas McGowan
McGrath North

Title: Attorney

Address: 1601 Dodge St. Ste 3700
Omaha, NE 68102

Telephone: _____

FOR CONOPCO, INC. (as successor in interest to PENICK CORPORATION for this matter):

[Signature]

by and on the behalf of Conopco, Inc.

Please Type the Following:

Name: Andrew Shakalis, Esq.

Title: Associate General Counsel – Environmental & Safety,
as in-house counsel acting on behalf of Conopco, Inc.

Address: 700 Sylvan Avenue, Englewood Cliffs, NJ 07632

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Andrew Shakalis, Esq.

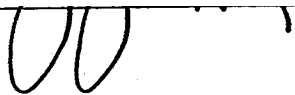
Title: Associate General Counsel – Environmental & Safety,
as in-house counsel acting on behalf of Conopco, Inc.

Address: 700 Sylvan Avenue, Englewood Cliffs, NJ 07632

Telephone: 201.875.5700

**FOR DAIMLERCHRYSLER CORPORATION (as successor to CHRYSLER
MOTORS CORPORATION:**

[Signature]



Please Type the Following:

Name: Gregory M. Rose

Title: Senior Manager, AD&R/DfE

Address: 800 Chrysler Drive, Auburn Hills, MI 48326

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Mary C. Ericson

Title: Attorney

Address: 1000 Chrysler Drive, Auburn Hills, MI 48326

Telephone: _____

FOR E.I. DUPONT DE NEMOURS AND COMPANY:

[Signature]

Please Type the Following:

Name: Guy V. Johnson
Title: Corporate Counsel
Address: E.I. du Pont de Nemours and Company
Legal D.7090-2
1007 Market St.
Wilmington, DE 19898

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Guy V. Johnson
Title: Corporate Counsel
Address: E.I. du Pont de Nemours and Company
Legal D.7090-2
1007 Market St.
Telephone: Wilmington, DE 19898

FOR GENERAL ELECTRIC COMPANY:

[Signature]

Please Type the Following:

Name: LISA A. HAMILTON, P.G.

Title: MANAGER

Address: 640 FREEDOM BUSINESS CTR
KING OF PRUSSIA, PA 19406

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: LISA A HAMILTON, PG

Title: MANAGER

Address: 640 FREEDOM BUS CTR
KING OF PRUSSIA, PA 19406

Telephone: _____

FOR GENERAL MOTORS CORPORATION:

2 _____
3 *[Signature]*

4 *Please Type the Following:*

5 Name: Michelle T. Fisher

6 Title: Attorney

7 Address: M.C. 482-C24-D24
300 Renaissance Center
P.O. Box 300
Detroit, MI 48265-3000

8 **Agent Authorized to Accept Service on Behalf of Above-Signed Party:**

9 *Please Type the Following:*

10 Name: CT Corporation System

11 Title: _____

12 Address: 300 E. Lombard St., Suite 1400
Baltimore, MD 21202

13 Telephone: _____

FOR GLAXOSMITHKLINE (as successor to BEECHAM, INC.):

[Signature]

Please Type the Following:

Name: DONALD F. PARMAN

Title: VP - ASSOCIATE GENERAL COUNSEL

Address: GLAXOSMITHKLINE
ONE FRANKLIN PLAZA
200 NORTH 16TH STREET
PHILADELPHIA, PA 19102

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: PAUL R. NOLL

Title: VP - ASSOCIATE GENERAL COUNSEL

Address: SAME AS ABOVE

Telephone: _____

FOR INDOPCO INC. (as successor to NATIONAL STARCH AND CHEMICAL COMPANY):

[Signature]

Please Type the Following:

Name: Douglas E. Cregar

Title: Corporate Vice President

Address: 10 Finderne Avenue, Bridgewater, NJ 08807

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:


Name: Alexander M. Samson, Jr.

Title: Associate General Counsel

Address: 10 Finderne Avenue, Bridgewater, NJ 08807

Telephone: _____

FOR INTERNATIONAL BUSINESS MACHINES CORPORATION:

[Signature] 

Please Type the Following:

Name: Wayne Balta

Title: Vice President Corporate Environmental Affairs and Product Safety

Address: 294, Route 100
Somers, NY 10589

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Hiroko Muraki Gottlieb

Title: Staff Attorney Corporate Environmental Affairs and Product Safety

Address: 294, Route 100
Somers, NY 10589

Telephone: _____

MORGAN STANLEY SERVICES CO., INC.

Formerly

LEVOLOR-LORENTZEN, INC.:

[Signature]

Please Type the Following:

Name: Barry Fink

Title: Managing Director & Secretary

Address: 1221 Avenue of Americas (22nd Flr.), NY, NY 10020

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Michael J. Naughton

Title: Attorney

Wilson, Elser, Moskowitz, Edelman & Dicker LLP

Address: 33 Washington Street (17th Flr.), Newark, NJ 07102

Telephone: _____

FOR GTE OPERATIONS SUPPORT INC. (as successor to GTE SYLVANIA, INC.):
INCORPORATED

[Signature] _____

Please Type the Following:

Name: Jean Agostinelli

Title: Vice President and Controller

Address: GTE Operations Support Incorporated
600 Hidden Ridge Drive
HQE03E75
Irving, TX 75038

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: N/A

Title: _____

Address: _____

Telephone: _____

FOR MARYLAND SAND, GRAVEL AND STONE COMPANY:

[Signature] 

Please Type the Following:

Name: Ronald E. Small, CPA

Title: Treasurer

Address: P.O. Box 914, Severna Park, MD 21146-0914

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: CT Corporation System

Title: Resident Agent

Address: 1515 Market Street, Suite 1210
Philadelphia, PA 19102

Telephone:

FOR MBH CHEMICAL CORPORATION:

[Signature]

Please Type the Following:

Name: Harvey Reisman

Title: _____

Address: _____

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Thomas Spiesman, Esq.

Title: Counsel

Address: Porzio Bromberg & Newman, P.C.
100 Southgate Parkway
Morrisstown, NJ 07962

Telephone: _____

FOR THE BOC GROUP, INC.:

[Signature] *Y*

Please Type the Following:

Name: James P. Blake

Title: Vice President & General Counsel

Address: 575 Mountain Ave.
Murray Hill, NJ 07974

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Corporation Trust Company

Title:

Address: Corporate Trust Center
1209 Orange Street
Wilmington, CE 19801

Telephone:

[Signature]

Telephone: _____

FOR NORTHROP GRUMMAN SYSTEMS CORPORATION (as successor to GRUMMAN CORPORATION):

[Signature]

Please Type the Following:

Name: Anthony D. Piazza

Title: VP & CFO Airborne Early Warning & Electronic Warfare

Address: 600 Grumman Road West, M/S Z40-025
Bethpage, NY 11714

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Gabriel Calvo

Title: Senior Staff Counsel — Environmental Law

Address: Northrop Grumman Corp., 1000 Wilson Blvd, Ste. 2300

Arlington, Virginia 22209
Telephone:

FOR OMEGA PROTEIN, INC. (as successor to ZAPATA HAYNIE CORPORATION):

[Signature]

Please Type the Following:

Name: John D. Held
Title: Senior Vice President, General Counsel and Secretary
Address: 1717 St. James, # 550, Houston, Texas 77056

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: John D. Held
Title: Senior Vice President, General Counsel and Secretary, Omega Protein, Inc.
Address: 1717 St. James Place, # 550, Houston, Texas 77056
Telephone: _____

FOR PPG INDUSTRIES, INC.:

[Signature] 

Please Type the Following:

Name: Michael H. McGarry

Title: Vice President, Chlor-Alkali & Derivatives
PPG Industries, Inc.

Address: One PPG Place
Pittsburgh, PA 15272

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Paul King

Title: Attorney

PPG Industries, Inc.
Address: One PPG Place, Pittsburgh, PA 15272

Telephone:

FOR MCKESSON CORPORATION:

[Signature] _____

Please Type the Following:

Name: Nicholas A. Loiacono

Title: Vice President and Treasurer

Address: McKesson Corporation
One Post Street
San Francisco, CA 94104

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Ivan D. Meyerson

Title: General Counsel

Address: McKesson Corporation
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San Francisco, CA 94104

Telephone: 4

FOR REMINGTON ARMS COMPANY:

[Signature] 

Please Type the Following:

Name: Guy V. Johnson

Title: Corporate Counsel

Address: E.I. du Pont de Nemours and Company
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1007 Market St.
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Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

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Title: Corporate Counsel

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Telephone: Wilmington, DE 19898

FOR SCHERING-PLOUGH CORPORATION:

[Signature]

Please Type the Following:

Name: David J. Paulin

Title: Legal Director

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K-6-1 (Law Dept)
Kenilworth, N.J. 07033

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: DAVID J. PAULIN

Title: LEGAL DIRECTOR

Address: 2000 GALLOPING HILL ROAD, K-6-1 (LAW DEPARTMENT)
KENILWORTH, NJ 07033

Telephone:

FOR SPC ENTERPRISES, INC. (as successor to SPRAY PRODUCTS CORPORATION):

[Signature]

Please Type the Following:

Name: ANDREW A. ORR

Title: PRESIDENT

Address: 453 INVERARAY VILLANOVA, PA 19085

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: ANDREW A. ORR

Title: PRESIDENT

Address: 453 INVERARAY VILLANOVA, PA 19085

Telephone: _____

FOR TECHNICOLOR, INC.:

(Signature)

Please Type the Following:

Name: Mary Ann Fialkowski

Title: Chief Financial Officer

Address: 2233 North Ontario Street, Burbank, CA 91504

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: John H. Oliphant

Title: SVP and General Counsel

Address: 2233 North Ontario Street, Burbank, CA 91504

Telephone:

FOR 3M COMPANY:

[Signature] _____

Please Type the Following:

Name: Janet L. Yeomans

Title: Vice President, Mergers and Acquisitions

Address: 3M Center, St. Paul, MN 55144-1000

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: John R. Allison

Title: Assistant General Counsel

Address: 3M Center, St. Paul, MN 55144-1000

Telephone: _____

FOR THE FRANKLIN MINT

[Signature]

Please Type the Following:

Name: Howard Lucker

Title: Vice President

Address: 105 Commerce Drive, Aston, PA 19014

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: _____

Title: _____

Address: _____

Telephone: _____

FOR UNION CARBIDE CORPORATION:

(

[Signature]

Please Type the Following:

Name: Sandi J. VanWormer

Title: Attorney

Address: 2030 Dow Center, Midland, MI 48674

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: The Corporation Trust Company

Title: Registered Agent

Address: 820 Bear Tavern Road, West Trenton, NJ 08628

Telephone: _____

FOR W.L. GORE & ASSOCIATES:

[Signature]

Please Type the Following:

Name: Jim K Buckley

Title: Operations Leader

Address: 555 Paper Mill Road Newark DE

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Mary M MaloneyHuss

Title: Attorney

551 Paper Mill Road P.O. Box 9206
Address: Newark, DE 19714-9206

Telephone: 3

[Signature]

**FOR WYETH HOLDINGS CORPORATION formerly known as
AMERICAN CYANAMIND COMPANY):**

(Signature)

Please Type the Following:

Name: Steven A. Tasher

Title: Vice President

Address: 5 Giralda Farms, Madison, New Jersey 07940

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Please Type the Following:

Name: Ronald J. Schott

Title: Senior Attorney

Address: Wyeth (on behalf of Wyeth Holdings Corporation)
5 Giralda Farms, Madison, New Jersey 07940

Telephone: _____